

Bloomberg Law

Manage Newsletters

Meta Stuck With Part of Investors' Cambridge Analytica Lawsuit

March 2, 2026, 2:11 PM PST

Summary by Bloomberg AI

AI Generated



- A federal court ruled that Meta Platforms Inc. must defend itself against some investor claims related to the Cambridge Analytica data-harvesting scandal.
- The court found that the complaint adequately alleged intent for statements about user control of data, despite executives' alleged knowledge of Cambridge Analytica's initial misuse of the data.
- The decision sets up pressure for settlement in the multibillion-dollar proposed class action, which alleges that Facebook made misleading statements about users' control over their own data and other issues.

Meta Platforms Inc. must defend itself against some investor claims stemming from a data-harvesting scandal involving political consulting firm Cambridge Analytica after a federal court ruled on key remaining questions in the high-stakes suit.

Executives' level of intent about some statements, and other issues necessary to show securities fraud at the company then known as Facebook, were left over from the suit's trip to the US Court of Appeals for the Ninth Circuit and then the US Supreme Court. The justices dropped their review as "improvidently granted" in late 2024.

Judge Edward J. Davila's decision Feb. 27 that portions of the multibillion-dollar proposed class action were well pleaded—denying Meta's dismissal request—sets up pressure for settlement.

Mark Zuckerberg and other Meta directors agreed in November to a \$190 million settlement of derivative suit claims that they failed to rectify repeated violations of Facebook users' privacy and shielded the billionaire chief executive officer from personal liability. That suit is pending in Delaware's Chancery Court.

The investors in the proposed class action alleged Facebook made misleading statements about users' control over their own data, about an internal investigation's conclusions, and about risk disclosures in submissions to the Securities and Exchange Commission treating the risk of user data misappropriation as hypothetical.

The investors allege their stock in the company took two significant hits in the wake of the scandal. The second of these, in July 2018, reflected a \$100 billion loss of market capitalization, "the largest such one-day drop in U.S. history," the investors said.

Davila said the complaint adequately alleged intent for statements about user control of data despite the executives' alleged knowledge of Cambridge Analytica's initial misuse of the data.

Meta didn't contest allegations that the user control statements were false because of numerous data privacy exceptions that Facebook made for approved app developers, Davila said.

But the investors can't challenge the risk disclosures on that theory because they forfeited their scienter argument, he said. They can't replead claims over statements about an internal investigation, and they forfeited an argument related to Cambridge Analytica's alleged continued misuse of data, the judge said.

Robbins Geller Rudman & Dowd LLP and Bernstein Litowitz Berger & Grossmann LLP are lead counsel for the investors. Gibson, Dunn & Crutcher LLP represents Facebook and the executives.

The case is In re Facebook, Inc. Sec. Litig. , N.D. Cal., No. 5:18-cv-01725, 2/27/26 .

To contact the reporter on this story: Martina Barash in Washington at mbarash@bloomberglaw.com

To contact the editor responsible for this story: Kiera Geraghty at kgeraghty@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Musk fraud trial opens with clash over story behind Twitter tweets

DJ [dailyjournal.com/articles/390048-musk-fraud-trial-opens-with-clash-over-story-behind-twitter-tweets](https://www.dailyjournal.com/articles/390048-musk-fraud-trial-opens-with-clash-over-story-behind-twitter-tweets)

Michael T. Lifrak of Quinn Emanuel Urquhart & Sullivan LLP

Senior U.S. District Judge Charles R. Breyer asked the attorneys to make sure their opening statements Monday in the securities lawsuit surrounding Elon Musk's acquisition of Twitter would help him fight jetlag after his return from Prague late the night before.

"I trust that your openings will be riveting, and there will be no possibility the court will fall asleep," Breyer said before inviting the jury into the room.

Aaron P. Arnzen of Bottini & Bottini LLP was first to take up the task of keeping the judge awake, presenting the plaintiffs' case that Musk committed securities fraud when he said he no longer planned to purchase the social media platform due to the prevalence of fake accounts.

Arnzen told the jury the story, as plaintiffs see it, of Musk's buyer's remorse and ensuing campaign to tank Twitter's stock price and renegotiate his \$44 billion purchase.

Musk "wanted a different deal so he mounted a public spectacle to trash the company," Arnzen said, accompanied by a PowerPoint. *Giuseppe Pampena v. Elon R. Musk*, 3:22-cv-05937 (N.D. Cal., filed Oct. 10, 2022).

The story presented by plaintiffs begins in early 2022, when Twitter found out Musk had quietly purchased over 9% of the company's stock. The Tesla CEO agreed to join Twitter's board but after Musk suggested Twitter was "dying" in response to a post about widely followed accounts that rarely use the platform, the agreement fell through.

Instead, Musk, who wasn't in the courtroom Monday but will testify, both sides said, decided to buy the entire company for \$54 a share, according to Arnzen. The offer was initially subject to due diligence, but when Musk felt Twitter was taking too long to get back to him, he waived that provision -- a point the plaintiffs, also represented by Cotchett, Pitre & McCarthy LLP, kept coming back to. By late April 2022, the two sides signed a merger agreement.

At 2:44 a.m. on May 13, 2022, Musk posted that the deal was "temporarily on hold" as he investigated the number of bots on the platform, before making another post saying he remained committed to getting the deal done.

The company's stock price fell by roughly 10% that morning.

The sides disagree about what changed between the merger agreement and Musk's posts in May. According to Arnzen, Musk planned to finance the deal largely through selling Tesla stock, but the electric carmaker's share price had fallen, making the deal costlier than Musk expected.

But Musk, represented by Michael T. Lifrak of Quinn Emanuel Urquhart & Sullivan LLP, pointed to a May 6 meeting he had with Twitter executives.

At the meeting, Lifrak said, Musk asked the company how it calculated its estimate that less than 5% of the platform's accounts were fake. Twitter's leadership responded that it randomly selects 100 accounts a day and applies the eye test to see if they're used by real people, which left Musk unsatisfied. Musk asked for more details, which Lifrak said the company promised it would send him shortly; but it took until May 12 for him to get a response that simply restated what he'd heard at the meeting the previous week.

"It wasn't a response that a company would give if they were trying to be transparent," Lifrak said.

Lifrak told jurors that Musk believed the deal was on hold until he had answers to his question about fake accounts. And in his post the following day, Musk used the word "temporarily," Lifrak pointed out. "That's important," Lifrak emphasized.

But Arnzen claimed the tweet was part of a broader plan to "punish the stock and try to renegotiate." Arnzen pointed to repeated statements Musk made about the fake account question, including an appearance on a podcast where he said at least 20% of accounts were bots. But Musk knew he'd waived due diligence and behind the scenes was preparing for the deal to go forward, Arnzen claimed.

Lifrak said the deal was contingent on the information provided being true, and Musk had a legitimate out if Twitter had lied to him.

He showed the jury an email one of Musk's bankers sent him late that June saying the stock price would "move" if he made a "material tweet."

In July, Musk sent a letter to Twitter terminating the deal, but the company sued to enforce the agreement. In October, he announced that he'd closed the deal at the original price.

In the process, though, the stock fell by over 30%, plaintiffs pointed out, before rebounding once the deal closed.

The story features complicated financial dealings and a big cast of characters, Arnzen said, but told jurors if "you keep your eyes on Musk... the case is incredibly straightforward."

Lifrak had a different plea to the jury.

"Your decision will be based on evidence, not speculation, not conjecture, not a conspiracy theory," he said.

#390048

Daniel Schrager

Daily Journal Staff Writer

daniel_schrager@dailyjournal.com

Securities

Musk Is on Trial Over His Tweets Ahead of Twitter Purchase (1)

March 2, 2026, 2:15 PM PST

Elon Musk's brief effort to back out of buying Twitter Inc. in 2022 is the focus of a trial that kicked off Monday over claims the world's richest person manipulated the company's stock price to get himself a better deal.

Musk eventually paid \$44 billion for Twitter that fall, closing the buyout at the \$54.20-per-share price he had originally agreed to six months earlier. But during the in-between months, a group of investors allege, Musk publicly attacked the company in a ruse to drive down its market value and benefit himself at their expense.

The trial in San Francisco federal court will cover familiar ground, namely the serial entrepreneur's unconventional penchant for communicating with the market through tweets — which has gotten him into trouble before. Musk is slated to be the star witness.

"We're here today because Elon Musk cheated investors" in an attempt to save himself billions of dollars on the Twitter buyout, Mark Molumphy, a lawyer for the investors, told jurors in his opening statement. "The evidence will show Mr Musk knew exactly what he was doing" by tweeting out false and misleading information about the deal, the lawyer said.

Michael Lifrak, a lawyer for Musk, countered that none of the information at issue with Musk's tweets about the deal was false.

"The evidence will show Mr. Musk didn't commit securities fraud and it isn't even close," he said. He told the jury Musk will take the stand to show that his concerns about Twitter's customer base "were real and weren't a fraud."

The trial will revisit the chaotic six-month period in 2022 during which Musk waffled between a hostile takeover of Twitter, an attempted withdrawal of his offer, and ultimately, consummation of the deal after the company sued him to follow through.

The investors are zeroing in on Musk's statements in May 2022 that he was putting the Twitter buyout "temporarily on hold," questioning the company's assertions over how much of the platform's traffic was driven by spam and fake accounts known as bots.

When Musk made that announcement, Twitter shares dropped almost 20% in premarket trading and closed the day down about 10%. The stock remained volatile for the months ahead.

The challenge facing the investors' legal team at trial will be to show that Musk was deliberately tanking the stock.

"Showing the intent behind Mr. Musk's statements is one of the main hills the plaintiffs in this case must climb to win," **Kevin Haeberle**, a law professor at University of California-Irvine, said in an interview. "It's not easy, but it's not an insurmountable barrier."

Musk denies wrongdoing, arguing he had no intent to deceive investors.

In an unrelated 2018 settlement with the Securities and Exchange Commission, Musk agreed to have his social media posts about "material" information involving Tesla Inc. pre-approved by an in-house lawyer. The regulator had accused him of securities fraud following his tweet that he had "funding secured" to take the electric car-maker private.

Years later, Musk fought all the way to the US Supreme Court — in vain — to try to end the "Twitter Sitter" agreement.

Tesla investors sued him over the same tweet that caused him issues with the SEC. He prevailed in a 2023 trial in San Francisco — and it took jurors just two hours of deliberations to clear him of wrongdoing.



Elon Musk in November 2025.

Photographer: Stefani Reynolds/Bloomberg

The billionaire has been dubbed “Teflon” Elon for his track record of winning high-stakes legal battles that many expected him to lose.

He dodged \$2 billion in damages in 2022 when he triumphed in a Delaware trial over claims that Tesla’s acquisition of SolarCity Corp. was an overpriced bailout for his cousins who founded the struggling solar panel company.

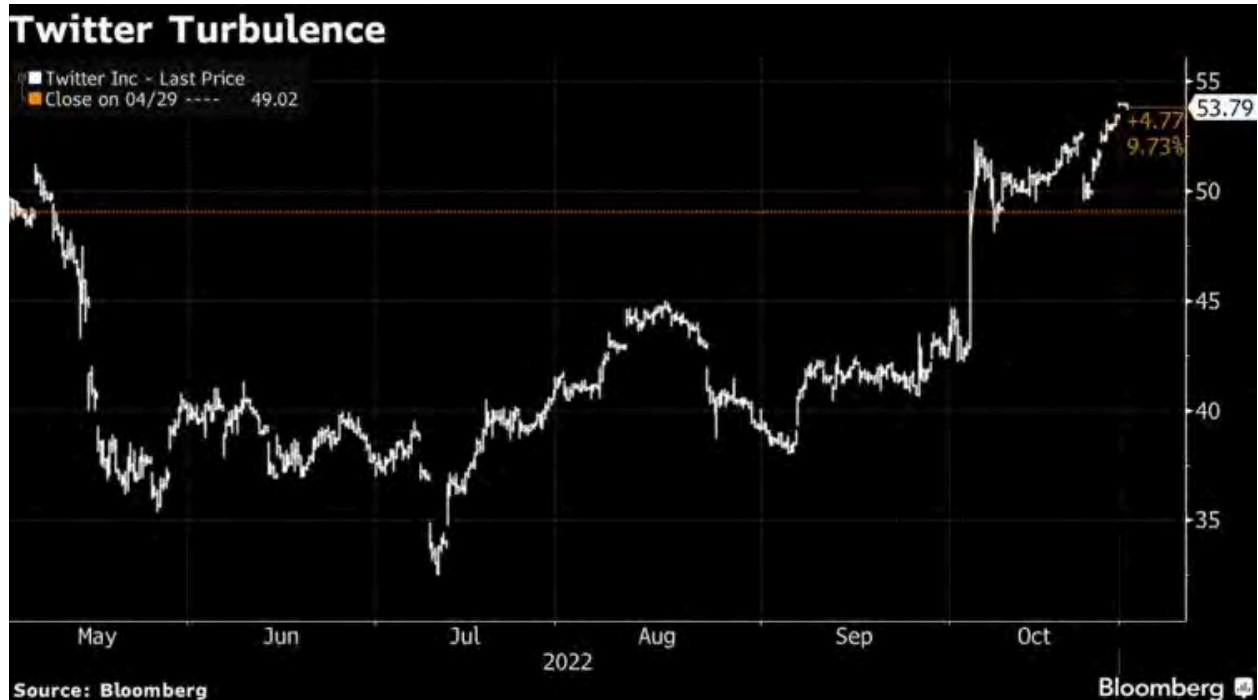
Most recently, Musk’s legal team got the Delaware Supreme Court in December to reinstate his Tesla pay package — which had set a record for executive compensation in the US when he agreed to it in 2018 — after a trial judge had twice voided it in a seven-year fight.

Musk testified in each of those cases.

Jill Fisch, a University of Pennsylvania law professor who teaches about securities law, credits what she described as Musk’s dynamic personality with swaying juries to side with him.

“In today’s environment, some people consider themselves to be coated in teflon when it comes to these types of claims and he’s one of them,” Fisch said.

Among Musk's lawyers is **Alex Spiro** of Quinn Emanuel Urquhart & Sullivan, who has successfully defended the billionaire in several of his courtroom clashes. Spiro was also one of Musk's main advisers in the Twitter buyout. The investors' lawyers tried and failed to get Spiro disqualified from Musk's trial team, arguing that they might call him as a witness.



Lawyers for the Twitter investors contend Musk's public statements about putting the buyout on hold "caused immediate panic that the deal was in jeopardy" — even while he knew that work on the takeover was continuing.

Musk's tweet on May 13, 2022, was false and misleading because it clearly created an "impression of a state of affairs that differs in a material way from the one that actually exists," investors said in court filings. The investors have not disclosed how much they are seeking in damages.

The investors also have targeted a follow-up tweet four days later in which Musk said the "deal cannot move forward" unless the chief executive officer of Twitter showed proof that less than 5% of the platform's accounts were fake.

"Musk's purported interest in Twitter's spam calculations was a pretext for getting out of the deal or renegotiating a lower price," lawyers for the plaintiffs said in a court filing.

Musk's legal team countered in filings that he "understood the statements to be true at the time they were made" and they were not part of a scheme to drive down Twitter's stock price.

In a reprise of Musk's defense in the 2023 Tesla tweet fraud trial, his lawyers are challenging the claim that he caused losses for Twitter shareholders, contending it's impossible to link his tweets to stock price movements.

The case is before Senior US District Judge Charles Breyer, the younger brother of retired US Supreme Court Justice Stephen Breyer.

Read More: Musk's Twitter Trial Gets Jurors Who Can Set Aside Feelings

During jury selection in February, almost half of the prospective jurors were dismissed for admitting they could not be impartial, with many voicing negative views of Musk, according to Bloomberg Law.

However Musk fares in the trial, he still faces other complaints over his purchase of Twitter, including an investor suit in New York federal court and an SEC case in Washington. He has denied wrongdoing in both.

The case is Pampena v. Musk, 3:22-cv-05937, US District Court for the Northern District of California (San Francisco).

(Updates with opening statements starting in fourth paragraph.)

To contact the reporter on this story:

Jef Feeley in Wilmington, Delaware at jfeeley@bloomberg.net

To contact the editors responsible for this story:

Sara Forden at sforden@bloomberg.net

Peter Blumberg, Kurt Wagner

© 2026 Bloomberg L.P. All rights reserved. Used with permission.

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Twitter investors claim Elon Musk 'cheated' in \$44 billion takeover of social media platform

C [courthousenews.com/twitter-investors-claim-elon-musk-cheated-in-44-billion-takeover-of-social-media-platform](https://www.courthousenews.com/twitter-investors-claim-elon-musk-cheated-in-44-billion-takeover-of-social-media-platform)

Margaret Attridge

March 3, 2026



Attorney Aaron Arnzen of Bottini & Bottini shows the jury a deposition video of Elon Musk during opening statements in a trial over Musk's purchase of Twitter. (Photo by Vicki Behringer via Courthouse News)

SAN FRANCISCO (CN) — A federal jury in San Francisco heard opening arguments Monday in a trial centered on Elon Musk's \$44 billion buyout of Twitter in 2022.

Investors, including lead plaintiffs Steve Garrett, Nancy Price, John Garrett and Brian Belgrave, accuse Musk of deliberately making misleading statements about the presence of spam bot accounts on Twitter to drive down the company's stock, in hopes of backing out of the acquisition deal or renegotiating more favorably for himself.

"We are here today because Elon Musk cheated investors to save himself billions of dollars," Plaintiffs' attorney Aaron P. Arnzen of Bottini & Bottini told the eight-person jury.

"Musk believes he can say or do whatever he wants anytime he wants, regardless of the consequences, because the law does not make an exception for those with power or influence," he added. "It took years to present this case to you and hold

Musk accountable.”

The investors claim Musk attempted to artificially lower Twitter’s stock price after agreeing to acquire the platform in April 2022, while also failing to disclose when his Twitter stake exceeded 5% or that he had initially been invited to join Twitter’s board.

Twitter ultimately sold to Musk for \$54.20 per share, only closing after the company [sued](#) Musk to force the deal to go through, while he accused the platform of hiding information about fake accounts.

Arzen spent the majority of his opening statement laying out a detailed timeline of Musk’s acquisition of Twitter, telling the jury the case is “incredibly straightforward” once they understood the background of the purchase.

“Keep your eyes on Musk, what he was doing, what he was saying,” he said.

The plaintiffs argue Musk rushed through the deal-making process, skipping traditional steps intended to give buyers more information on a company, as well as presenting a “seller-friendly” agreement, Arzen explained as “deal certainty.”

Plaintiffs claim Musk began to second-guess the deal shortly after signing on the dotted line because of issues he ran into selling shares of Tesla stock to pay for the Twitter acquisition. As Musk sold more shares, the price tanked, leading Musk to have to sell even more in order to buy the company, Arzen said.

He added that to get out of the deal, Musk decided to focus on his concerns over fake, or bot, accounts on Twitter and mount “a public spectacle to trash the company and drive stock price down,” making a series of false or misleading comments about Twitter’s bot counts to hurt the company’s stock price.

The statements at issue include a tweet from May 13, 2022, where Musk said the Twitter deal was on hold, “pending details supporting calculation that spam/fake accounts do indeed represent less than 5% of users.” A couple hours later, Musk followed up with another tweet saying he was “still committed to acquisition.”

“He tweeted to tens of millions of followers, why? That is how you pound down the stock price and pressure Twitter to negotiate,” Arzen said. “He knew that this tweet was so bad, so damaging, he had to walk it back.”

In addition to the tweets, Musk said in a May 16 comment at a conference that fake and spam accounts made up at least 20% of Twitter users at the time, and tweeting a poop emoji when then Twitter CEO Parag Agrawal commented there was no way for external parties to calculate this information. Musk tweeted the next day the deal would not be moving forward until Agrawal provided evidence of bot numbers under 5%.

Arzen told the jury Musk's statements doubting the estimated percentage of bots on Twitter were "deeply misleading" and there was no basis for the number to be below 5%. He added that despite what Musk was representing to the public, the acquisition deal was not on hold, and Musk didn't have a right to pause the deal due to the fast-tracked nature of the agreement.

"Now that you have a background, you can understand the scheme. Trash Twitter with his personal megaphone, punish the stock and renegotiate. That explains everything that happened after May 13," Arzen said.

In response to plaintiffs' accusations Musk lied in his tweets to artificially deflate Twitter's share price, Michael T. Lifrak of Quinn Emanuel Urquhart & Sullivan, an attorney for Elon Musk, said all the statements plaintiffs claim to be false are, in fact, true.

He further claimed Musk did not want to harm Twitter or its shareholders, describing Musk's attempts to get the truth about the number of fake accounts on the platform as a "legitimate effort."

"As we go through the evidence, ask yourself, what Mr. Musk was doing, what is real, or was it fraud?" he told the jury. "This story has a lot to do with bots. Mr. Musk used Twitter since the beginning. He had spoken out about bots for years. It made Twitter worse for everyone who used it. His concern about bots was real, not fraud."

Lifrak said Twitter told Musk they calculated the 5% bot number by having human reviewers analyze 100 accounts a day to determine whether or not they were bots, a process he said Musk was "stunned" by.

When Musk tried to get more information about the review process, Lifrak said Twitter stalled or refused to answer, describing their behavior as a "red flag" for Musk.

He additionally explained to the jury Musk's May 13 tweets were a way to give all shareholders and the public "all the information they needed." Lifrak further said Musk's tweets in the days after sought to crowd-source information about Twitter's bot counts and maintain transparency over what was happening.

"Musk's concern about bots is longstanding and real. Musk's quest for information about 5% is real. Twitter promising information he asked for and not giving it to him is real. Musk delaying closing until he got that information; that is real. His belief that bots could be 20% or more is evidence to show that this is all real, and not a fraud," Lifrak said.

Lifrak also teased Musk's in-person testimony in the trial, telling the jury he will "take the stand like any other witness, he will look you in the eye and tell you that this was no scheme to lower Twitter stock price to try to get a better deal in the transaction price."

Following opening arguments, Brian Belgrave, one of the named plaintiffs in the case, testified, telling the jury he joined the lawsuit against Musk because he "felt that I got cheated, lied to, and I lost a lot of money."

Belgrave bought 15,000 shares of Twitter stock between May and June 2022. He said he anticipated selling the stock once Musk's acquisition deal went through at the price of \$54.20 a piece. However, Belgrave said he sold his shares in July 2022 for around \$33 after Musk indicated he was no longer going through with his purchase of Twitter.

"Six weeks later, he bought the company and I thought that I got screwed," Begrave testified. "These are two opposite things. I got lied to, felt like I got cheated, that I could not turn in my shares for \$54 instead of \$33."

On cross-examination, Stephen Broome of Quinn Emanuel Urquhart & Sullivan, an attorney for Musk, unsuccessfully attempted to have Belgrave impeached twice based on inconsistencies in notes Belgrave wrote when he first bought Twitter stock on May 13.

Plaintiffs also called Vijaya Gadde, Twitter's former chief legal officer, to testify. Her testimony will continue Tuesday.

Musk is expected to take the stand on Wednesday.

U.S. District Judge Charles R. Breyer, a Bill Clinton appointee, is presiding over the trial. It is scheduled to continue through March 16.

Securities

Manage Newsletters

BioXcel's \$9.75 Million Investor Accord Gets Initial Approval

March 3, 2026, 10:27 AM PST

BioXcel Therapeutics Inc.'s \$9.75 million agreement to settle investor claims over a clinical trial for an Alzheimer's treatment merits preliminary approval, a federal court ruled.

The amount—representing 14% of total recoverable damages, according to the investors—falls within a “range of reasonableness,” Judge Sarala V. Nagala said Monday for the US District Court for the District of Connecticut.

The investors alleged BioXcel and three executives failed to disclose a Food and Drug Administration investigation into how the clinical trial for Tranquility II, a potential agitation treatment for Alzheimer's disease patients, was being conducted

BioXcel's stock price fell 64% to close at \$6.39 on June 29, 2023, the day it finally revealed the FDA's qualms about the study, the investors said

Nagala rejected BioXcel's request for dismissal in September 2025

Levi & Korsinsky LLP and Grant & Eisenhofer PA are lead counsel for the investors. Latham & Watkins LLP represents BioXcel and the individual investors.

The case is Hills v. BioXcel Therapeutics Inc. , D. Conn., No. 3:23-cv-00915, 3/2/26 .

To contact the reporter on this story: Martina Barash in Washington at mbarash@bloomberglaw.com

To contact the editor responsible for this story: Alex Clearfield at aclearfield@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Apollo, Leon Black sued for allegedly concealing Epstein business ties from shareholders

 [reuters.com/sustainability/boards-policy-regulation/apollo-leon-black-sued-allegedly-concealing-epstein-business-ties-shareholders-2026-03-03](https://www.reuters.com/sustainability/boards-policy-regulation/apollo-leon-black-sued-allegedly-concealing-epstein-business-ties-shareholders-2026-03-03)

Jonathan Stempel, Isla Binnie

March 3, 2026

Apollo Global Management's logo at their office in Tokyo, Japan October 20, 2025.

REUTERS/Miho Uranaka/File Photo [Purchase Licensing Rights, opens new tab](#)

- Apollo accused of misleading shareholders in regulatory filings
- Alternative asset managers' shares have slumped
- Apollo, Black decline to comment on lawsuit
- Apollo, Black have distanced themselves from Epstein

NEW YORK, March 2 (Reuters) - Shareholders sued Apollo Global Management and its billionaire co-founders Leon Black and Marc Rowan on Monday in a proposed class action for allegedly defrauding them for nearly five years about the private capital firm's business dealings with disgraced sex offender and financier Jeffrey Epstein.

According to a complaint filed in Manhattan federal court, the shareholders alleged the defendants falsely denied in several regulatory filings in 2021 and 2022 ever doing business with Epstein, though Epstein "was heavily involved and frequently communicated with Apollo Global's senior leadership" about Apollo's business during the 2010s.

Sign up [here](#).

The shareholders said Apollo's stock ([APO.N](#))  [, opens new tab](#) fell about 15% over three weeks in February, wiping out about \$12 billion of market value, as the truth came out.

A spokesperson for Apollo and Rowan, its chief executive, declined to comment. Whit Clay, a spokesperson for Black, declined to comment. Rowan succeeded Black as chief executive in 2021.

Apollo said in a February 18 [letter](#)  [, opens new tab](#) to clients that neither Rowan nor anyone else at Apollo other than Black had a business or personal relationship with Epstein.

It also said that "in select instances" Rowan and other Apollo employees provided information to Epstein related to his tax work for Black, but that when Epstein sought to do work for other co-founders he was "declined at every turn."

Black has denied wrongdoing and said he was unaware of Epstein's criminal conduct.

Shareholders led by Solomon Feldman said in the lawsuit that Apollo's regulatory filings referred to a January 2021 [review](#)  , [opens new tab](#) by the Dechert law firm, which found Black paid Epstein \$158 million for tax and estate planning, but Apollo never retained Epstein for any services and Epstein never invested in Apollo-managed funds.

Apollo's assurances allegedly proved false following the U.S. Department of Justice's January 30 [release](#) of a large cache of documents, videos and images related to Epstein.

The complaint cites media reports on Epstein's alleged written and in-person communications with Apollo officials during the mid-2010s, and demands by teachers unions that the U.S. Securities and Exchange Commission investigate Apollo.

Though the proposed class period began in May 2021, after Black stepped down as Apollo's chief executive and chairman, the complaint said he remained liable as a "control person" with 7% of Apollo's stock as of April 2025.

Apollo's share price decline in February coincided with the latest stage of a months-long [slide](#) among large alternative asset managers.

Investors in the sector have worried about growth prospects, underwriting standards in private lending, and whether AI would disrupt software businesses that the firms have lent to or purchased.

Epstein died in a Manhattan jail in August 2019 while awaiting trial for sex trafficking. The office of the New York City medical examiner ruled his death a suicide.

Reporting by Jonathan Stempel and Isla Binnie in New York; Editing by Noeleen Walder and Christian Schmollinger

Our Standards: [The Thomson Reuters Trust Principles](#).  , [opens new tab](#)

[Isla Binnie](#)

Thomson Reuters

Isla Binnie reports on how company directors and executives manage stakeholder and shareholder interests, with a focus on compensation, corporate crises, dealmaking and succession. She also covers how politics, regulation, environmental issues and the broader economy affect boardroom discussions. Isla previously covered business, politics and general news in Spain and Italy. She trained with Reuters in London and covered emerging markets debt for the International Financing Review (IFR).

- X

Epstein estate's \$35 million settlement with accusers wins preliminary judge approval

 [reuters.com/world/us-judge-preliminarily-approves-35-million-settlement-between-epstein-estate-2026-03-03](https://www.reuters.com/world/us-judge-preliminarily-approves-35-million-settlement-between-epstein-estate-2026-03-03)

Luc Cohen

March 3, 2026

Protesters and members of the news media gather outside Manhattan Federal Court, during the arraignment hearing of Ghislaine Maxwell for her role in the sexual exploitation and abuse of minor... [Purchase Licensing Rights, opens new tab](#)
Read more

NEW YORK, March 3 (Reuters) - A U.S. judge granted preliminary approval on Tuesday to an agreement for [Jeffrey Epstein](#)'s estate to pay as much as \$35 million to resolve a class action lawsuit that accused two of the disgraced financier's advisers of aiding and abetting his sex trafficking of young women and teenage girls.

Boies Schiller Flexner, a law firm representing Epstein victims, [announced](#) the settlement on February 19. On Tuesday, Manhattan-based U.S. District Judge Arun Subramanian said the agreement appeared fair. The judge scheduled a hearing for September 16 to consider granting final approval.

Sign up [here](#).

The deal would bring an end to a 2024 lawsuit filed against Epstein's former personal lawyer Darren Indyke and former accountant Richard Kahn, who are co-executors of Epstein's estate.

Epstein's estate previously set up a restitution fund that paid out \$121 million to victims. The estate also paid \$49 million in additional settlements to victims.

Lawyers for Indyke and Kahn did not immediately respond to requests for comment. One of their lawyers had previously said neither Indyke nor Kahn "made any admission or concession of misconduct" as part of the settlement.

Epstein died in a New York jail in August 2019. His death was ruled a suicide.

Millions of [documents](#) released this year by the Justice Department from its investigation into Epstein have shed light on his social ties to wealthy and powerful people [around the world](#).

In the 2024 lawsuit, lawyers at Boies Schiller Flexner said Indyke and Kahn helped Epstein create a complex web of corporations and bank accounts that let him hide his abuses and pay victims and recruiters, while leaving them "richly

compensated" for their work.

The Boies law firm previously helped obtain \$365 million of settlements with JPMorgan Chase and Deutsche Bank after accusing them of missing red flags about Epstein, once a lucrative client.

Reporting by Luc Cohen in New York; Editing by Daniel Wallis

Our Standards: [The Thomson Reuters Trust Principles.](#)  [, opens new tab](#)

Reports on the New York federal courts. Previously worked as a correspondent in Venezuela and Argentina.

- X

Securities

Manage Newsletters

Apollo's Rowan Says Epstein 'Wasting My Time' From the Grave

March 3, 2026, 8:09 AM PST

Summary by Bloomberg AI AI Generated



- Apollo Global Management Inc. Chief Executive Officer Marc Rowan said he only dealt with Jeffrey Epstein in his capacity as tax adviser for the firm's co-founder Leon Black.
- Rowan said Apollo did no business with Epstein, and that he wouldn't have done anything differently in the saga.
- Rowan stated that Apollo's structure as a partnership made Black's tax affairs relevant to the firm, and that Black made his own decisions.

Apollo Global Management Inc. Chief Executive Officer **Marc Rowan** said he only dealt with Jeffrey Epstein in his capacity as tax adviser for the firm's co-founder Leon Black, and reiterated that Apollo did no business with the sex offender.

"I didn't like him for my own reasons, he wasted my time," Rowan said in an interview with Bloomberg News Editor-in-Chief **John Micklethwait** at Bloomberg Invest in New York on Tuesday. "Even from the grave, he's wasting my time."

Apollo has sought to reassure clients that its top executives didn't have a relationship with the disgraced financier after some employees, including Rowan, were named in newly released files by the Justice Department. In "select instances" Rowan and other Apollo employees provided information to Epstein in connection with his tax work for Black, the firm said in a letter to clients last month.



Marc Rowan speaks during the Bloomberg Invest event in New York on Tuesday.

Photographer: Michael Nagle/Bloomberg

Read more: [Apollo Seeks to Reassure Clients About Rowan's Epstein Ties](#)

The letter came after two teachers unions [asked](#) the US Securities & Exchange Commission to scrutinize whether a 2021 statement from Apollo about the extent of its contact with the late sex offender could be considered materially false or misleading.

Rowan said Tuesday he wouldn't have done anything differently in the saga.

"Whether through good judgment or good fortune, this is not someone I built a personal or business relationship with," Rowan said. "It's not someone Apollo did business with."

Rowan said Apollo's structure as a partnership in previous years made Black's tax affairs relevant to the firm.

"Leon made his own decisions," Rowan said.

To contact the reporter on this story:

Laura Benitez in Los Angeles at lbenitez1@bloomberg.net

To contact the editors responsible for this story:

Michael J. Moore at mmoore55@bloomberg.net

Jenny Surane

© 2026 Bloomberg L.P. All rights reserved. Used with permission.

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Ruling Sheds Light on Crypto Classification—and Allows Class Action to Proceed

"[T]he plaintiffs relinquished control of their crypto assets to the defendants in exchange for the intermediate rates of return and the final return of the investors' assets at the conclusion of the investment," the court ruled.

March 02, 2026 at 05:42 PM By  **Emily Cousins**



Photo: Funtap/Adobe Stock

A Connecticut federal judge denied New Jersey-based Digital Currency Group's motion to dismiss a securities class action, which claims the company defrauded investors and hid one of its subsidiaries' financial conditions.

This decision held that a crypto-lending product is a security—and not a loan—as the Digital Currency Group had argued.

The ruling allows federal claims to move forward against Digital Currency Group, a digital asset and blockchain technology company based in Connecticut, and several executives.

DCG is represented by attorneys Carolina Zalka and Josh Wesneski of Weil, Gotshal & Manges, and Thomas D. Goldberg and Johanna Lerner of Day Pitney. Counsel for DCG did not respond to a request for comment.

Genesis Global Capital, a subsidiary of Digital Currency Group based in New Jersey, allegedly concealed an impending \$1.1 billion insolvency.

The putative class action claimed the Genesis Yield program should have been registered with the Securities and Exchange Commission because it met the definition of a security.

Further, investors allegedly relied on false assurances from Genesis and then lost access to their assets, the suit claimed. Genesis declared bankruptcy in June 2022.

Attorneys Ian Sloss of Silver Golub & Teitell and Jeffrey P. Campisi of Kaplan Fox represent the plaintiffs and putative class.

The defendants argued in their motion to dismiss that the plaintiffs had not sufficiently pleaded a violation under securities laws.

DCG claimed the Genesis Yield program was not a security, and was a commercial lending arrangement where users lent crypto and receiving a fixed interest rate. In addition, the executive defendants claimed there was no fraud, and they were not aware Genesis was insolvent.

In his decision, federal Judge Stefan R. Underhill noted the billion-dollar cryptocurrency industry has largely been regulated through litigation, and pointed out the difficulties of relying on older court precedent for a modern industry. He said the available tests will not cover the Genesis Yield program "neatly."

Under the *SEC v. W.J. Howey*, a 1946 U.S. Supreme Court case, Underhill concluded the Genesis Yield program is an investment contract because investors transferred digital assets or cash and bore a risk of financial loss.

"[T]he plaintiffs relinquished control of their crypto assets to the defendants in exchange for the intermediate rates of return and the final return of the investors' assets at the conclusion of the investment," the court ruled. "Indeed, as further evidence that plaintiffs' lack of control over their crypto assets qualifies as a risk of loss, Genesis never returned the full number of coins that direct investors initially invested in the Genesis Yield program."

In addition, the court held the Genesis Yield program is considered a note under *Reves v. Ernst & Young*, a 1990 U.S. Supreme Court case, because investors sought profits was broadly offered to the public.

Underhill also found the plaintiffs had adequately pleaded scienter against the defendants.

While the claims under the Securities Act and Exchange Act can move forward, the court dismissed the state law claims, holding they are duplicative.

The stay of the case under the Private Securities Litigation Reform Act of 1995, a U.S. federal law enacted to address an abundance of securities class actions, was lifted, meaning discovery can now ensue.

Page printed from:

NOT FOR REPRINT

© 2026 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).

More Than a Dozen Law Firms Criticize 'Fast Track' Approval of \$7.25B Roundup Settlement as 'Unreasonable'

'The court should not rubber-stamp even the first step of this vast proposal,' law firms claiming to represent 20,000 Roundup clients wrote in an intervention motion about the \$7.25 billion class action settlement.

March 02, 2026 at 06:37 PM By  **Amanda Bronstad**

What You Need to Know

- The intervening law firms, facing a possible May 4 preliminary approval hearing, have asked for 60 more days to evaluate the settlement.
- They raised a number of concerns about whether the lead class representatives in the settlement adequately represented all class members, particularly those with aggressive forms of cancer and residential users.
- Class counsel, in a Feb. 26 response, called the intervenors' motion 'rife with inaccuracies' and 'littered with misstatements.'



Garden supply store shelf with containers of Round up chemical weed control agents. Credit: Sheila Fitzgerald/Shutterstock.com

Lawyers who crafted a proposed \$7.25 billion Roundup settlement aren't providing enough time to evaluate the class action deal, which already contains some concerning provisions, according to a group of law firms claiming to represent 20,000 claimants.

More than a dozen plaintiffs' law firms filed a motion to intervene in the settlement, which Bayer [announced on Feb. 17](#) in an attempt to resolve tens of thousands of lawsuits filed over Monsanto's Roundup following multiple verdicts, with juries awarding as much as \$2 billion and a number of defense wins. The deal took 18 months to negotiate, but law firms have 15 days to evaluate the settlement before a Missouri state court judge considers whether to approve it, the motion says. The firms behind the intervention motion are asking for 60 days.

"A rush to preliminary approval is not justified, especially given the complexity of the underlying proposal and the unworkability of unwinding a preliminary approval later on," the firms wrote in the Feb. 24 motion. "The court should not rubber-stamp even the first step of this vast proposal without first hearing from intervenors and others who do not have a vested interest in approval of the settlement."

They raised a number of concerns about whether the lead class representatives in the settlement adequately represented all class members, particularly those with more aggressive non-Hodgkin lymphoma, other cancers and wrongful death claims. For many, the amount of compensation under the settlement would not even cover their medical expenses. And, under its terms, residential users, in particular, couldn't receive more than \$40,000.

They have also filed a motion opposing "fast track" preliminary approval of the settlement, which, according to the settlement's terms, would stay all Roundup cases, many of which are being "actively litigated."

"Prior to filing this motion, intervenors' counsel requested that proposed class counsel agree to a modest extension of time to review the settlement materials, but proposed class counsel would not agree to do so," they wrote. "Expecting non-settling counsel to meaningfully analyze over 600 pages of complex settlement provisions in just 15 days—documents that took the settling parties two years to produce—is unreasonable and fundamentally inconsistent with due process."

Asking for more time to review the settlement is a valid request, especially for such a complex deal, Adam Zimmerman, a professor at the University of Southern California's Gould School of Law, told Law.com. But there are also procedures in class actions that allow objectors to raise concerns about the settlement prior to a final approval hearing.

The intervenors' concerns about the settlement details reflect common challenges in attempting to resolve mass torts through a class action agreement, he said.



Adam Zimmerman, Professor of Law at University of Southern California Gould School of Law. Courtesy photo

“In a class action, there is supposed to be an assurance that the different interest groups who might benefit from the class are represented by different lawyers negotiating the deal,” he said.

Class counsel, in a Feb. 26 response, called the intervenors’ motion “rife with inaccuracies” and “littered with misstatements.” They insisted that the schedule outlined in the deal provided plenty of time to object to, opt out of, or appeal the settlement. The settlement could receive preliminary approval by March 4, and law firms have 90 days from that date to object to the settlement.

In an interview with Law.com, co-lead class counsel Chris Seeger of Seeger Weiss in Ridgefield Park, New Jersey, called the claims from intervenors that they weren’t adequately represented a “bogus argument.”

“There’s no requirement that you have to have a class rep that is representing that exact injury,” he told Law.com.

The other co-lead class counsel is Eric Holland, of Holland Law Firm in St. Louis, Missouri, along with Ketchmark and McCreight in Kansas City, Missouri; Motley Rice in Mt. Pleasant, South Carolina; Los Angeles—based Waters Kraus Paul & Siegel; and Houston’s Williams Hart & Boundas.

“It is obvious that the proposed intervenors have reviewed the agreement over the last week,” they wrote in a prepared statement to Law.com. “We believe the court should grant preliminary

approval as we've requested and after that these lawyers will have additional time to advise their clients on the merits of the agreement."

A Monsanto spokesman, in an emailed statement, said, "We fully expect a robust debate about the class settlement and are not surprised by either the support or opposition from plaintiff firms. We remain confident that the long-term and well-financed proposed class settlement plan, which is supported by plaintiff law firms representing thousands of potential class members, is fair to all claimants, and warrants approval by the court."

Settlement 'Heavily Favors Occupational Roundup Users'

The intervening firms are: St. Louis, Missouri-based Niemeyer, Grebel & Kruse; Wagstaff Law Firm in Denver; Weitz & Luxenberg in New York; Dallas-based Forrest Weldon Law Group; Sbaiti & Co. in Newark, New Jersey, and Dallas; Chicago's Cooney & Conway; The Ferraro Law Firm in Miami; Bernheim Kelley Battista in Plymouth, Massachusetts; Chicago's Wallace Miller; Dallas-based Kirkendall Dwyer; VanderHahn in Houston; Rosen Injury Lawyers in Jenkintown, Pennsylvania; Philadelphia's Green & Schafle.



Aimee Wagstaff of Wagstaff Law Firm.

Aimee Wagstaff, of Wagstaff Law Firm, and Robin Greenwald, of Weitz & Luxenberg in New York, are co-lead counsel in the Roundup multidistrict litigation in the Northern District of California, where nearly 4,000 cases in federal court are excluded from the proposed settlement.

Sbaiti's Asim Badaruzzaman and Chantal Khalil Levy, of Weitz & Luxenberg, are co-lead counsel in the Roundup litigation in New Jersey's state courts, where Monsanto has [moved to dismiss](#) nearly 90 of the 121 cases coordinated in that state.

And James Ferraro Jr., of Ferraro Law Firm, [has a Roundup trial starting](#) on March 9 in Florida's Broward County Circuit Court.

The Roundup settlement provides a range of compensation amounts, from \$10,000 to \$165,000, to those who were diagnosed with non-Hodgkin lymphoma or will be in the future. The deal also differentiates amounts based on how aggressive the cancer is and whether the claimant was exposed at work or at home—a distinction that raised concerns among the intervening law firms.

“The proposed settlement heavily favors occupational Roundup users over residential users like intervenors,” they wrote.

That’s because landscapers and others who use Roundup at their jobs might have better documentation and exposure claims, Zimmerman said, even if most of the lawsuits are brought by individuals who sprayed the pesticide at home.

“There’s a reason you can justify these types of breakdowns, but what’s motivating the Monsanto litigation is the fact it’s this incredibly widely used product by consumers who recently learned there might be risks they didn’t know about when using the product,” he said. “The claims that are the reason for the settlement are also the claims that in actual litigation might not necessarily get the same payouts as the occupational claims.”

Class counsel insisted that the U.S. Supreme Court’s [review of a Roundup case](#) and April 27 arguments on federal preemption risked plaintiffs no longer having their strongest claim: that Monsanto failed to warn about cancer risks.

But not all lawyers agree. They note that the Supreme Court accepted the case to address a narrow question: Whether the Federal Insecticide, Fungicide, and Rodenticide Act preempts a label-based failure-to-warn claim where the Environmental Protection Agency has not required the warning. That excludes failing to warn in marketing materials or advertisements, as well as other claims such as negligence and defective design.

“We’re not concerned about how the Supreme Court rules and how it’ll affect these cases, but it’s being used against us,” one lawyer told Law.com on condition of anonymity.

Zimmerman agreed that a Supreme Court decision for Monsanto isn’t a “slam dunk,” particularly given some previous decisions that were friendly to plaintiffs on federal preemption.

“Any decision from the Supreme Court, even if it benefits Monsanto, probably won’t end up wiping out all the claims,” he said of Roundup. “But I get it. It’s casting a shadow and creating settlement pressure over what’s happening.”

Page printed from: <https://www.law.com/2026/03/02/more-than-a-dozen-law-firms-criticize-fast-track-approval-of-725b-roundup-settlement-as-unreasonable/print/>

NOT FOR REPRINT

© 2026 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).

Will talc juries hear from 'echo chamber for weak science?' | Federal Courts

 [legalnewsline.com/federal-courts/will-talc-juries-hear-from-echo-chamber-for-weak-science/article_07e2db0d-97d3-43ed-a5c2-6195cac28e1e.html](https://www.legalnewsline.com/federal-courts/will-talc-juries-hear-from-echo-chamber-for-weak-science/article_07e2db0d-97d3-43ed-a5c2-6195cac28e1e.html)

Daniel Fisher, John O'Brien

March 3, 2026

William Longo testifies before a congressional committee on asbestos and talc
<https://www.youtube.com/watch?v=ZL8o-Io4WZM>

TRENTON, N.J. - The experts who made talc litigation possible are on trial as a federal judge in New Jersey will decide whether their opinions are supported by real science or tailored to fit the story plaintiff lawyers want to tell jurors.

Expert opinions blaming cosmetic talc like Baby Powder for causing cancer "are grounded in results-oriented methods and are at odds with the U.S. scientific and medical consensus," Johnson & Johnson said in a recent court filing. The stakes are high, as similar mass torts have fallen apart when judges tossed experts' testimony after finding they couldn't prove [Zantac causes cancer](#) or [Tylenol causes autism](#).

Facing more than 67,000 lawsuits that allege talcum powder is tainted with asbestos, J&J has asked the judge overseeing multidistrict litigation to disqualify key witnesses, including William Longo, an expert who claims to find stray asbestos fibers in decades-old bottles of Johnson's Baby Powder.

If they have Longo's testimony in hand, plaintiff lawyers can then present medical experts who testify the asbestos fibers somehow migrated into the bodies of women to cause ovarian cancer. Johnson & Johnson is challenging those experts' testimony as well, arguing they can't explain how Baby Powder dusted on a woman's lower body can work its way up through the genital tract and Fallopian tubes to the ovaries.

Despite these objections, a special master has recommended the judge overseeing multidistrict talc litigation allow jurors to hear the disputed evidence and decide for themselves whether the experts are right. In a Jan. 20 opinion, retired judge Freda L. Wolfson rejected most of J&J's challenges even under stringent standards of evidence that require judges to act as "gatekeepers" and rigorously examine the methods and factual conclusions of expert witnesses. The MDL judge, Michael Shipp, will make the final call.

Judge Wolfson's latest report largely repeats her 2020 opinion, before the federal rules on scientific evidence were tightened, to conclude there is no scientific consensus on talc and therefore "the question of whose experts are correct is a question for the jury."

Johnson & Johnson says lay jurors aren't qualified to figure out whether plaintiff experts are getting the science right. Most of the evidence supporting the plaintiff opinions comes from case-control studies, where researchers ask subjects who have already been diagnosed with a disease to say whether they used products suspected of causing it. Critics say such studies are prone to "recall bias" where subjects "remember" using the product they think made them sick.

There are larger problems, J&J says. The largest study, named after the principal author O'Brien, looked at 253,000 women and concluded in 2020 there was no statistically significant link between talc use and ovarian cancer. The authors revised the study in 2004, however, "imputing exposure" in cases where they didn't have data or the study participants died, and found a 40% higher ovarian cancer risk in moderate users of talc.

Other plaintiff experts have written their own studies based in part upon the risk levels reported in O'Brien, J&J says, "creating an echo chamber for weak science that depends more on the volume of references than the quality of the data or the soundness of the methodology."

Judge Wolfson also credited the experts' use of the Bradford Hill methodology, a multipart test for the reliability of a scientific conclusion. The special master gave a pass to the most important part of that test, however, which is whether there is evidence of a dose-response relationship between talc and cancer. Nearly everyone already has billions of asbestos fibers in their bodies from ambient exposure, yet plaintiff experts haven't shown the additional asbestos they say is in talc is enough to cause cancer, J&J says.

"Plaintiffs' experts should not be allowed to tell a jury that a causal relationship between talc use and ovarian cancer exists when they concede that the 'single most important factor' in the Bradford Hill analysis does not support them," J&J said in its objection to Judge Wolfson's findings.

The American Tort Reform Association called this the ["Junk Science Playbook"](#) in a recent report. Plaintiff lawyers hire experts to produce evidence to support their cases, and those experts publish studies in pay-to-publish journals that lack rigorous peer review.

"Quasi-academic organizations, litigation-support laboratories, and agenda-driven nonprofits produce studies that conflict with mainstream science," ATRA says.

Johnson & Johnson has aggressively been pushing back, winning court rulings against experts it says fabricated evidence. Last week, a federal judge in New Jersey allowed J&J's trade libel suit to proceed against Dr. Jacqueline Moline, a frequent plaintiff expert who wrote a study claiming 33 cancer patients had "no known alternative exposure" to asbestos other than talc. It turns out at least 11 of the subjects had claimed other exposures in litigation, three of whom used Dr. Moline as an expert.

A court in Virginia also allowed a lawsuit against Dr. Theresa Emory over similar claims of fabricated study results.

Judge Wolfson still must hand down a recommendation on Longo, an expert who uses X-ray microscopy to detect what he says are asbestos fibers in talc. She held hearings in January and February on Longo's methods, which J&J says are an amalgam of different regulatory standards that allow him to confuse jurors about what constitutes asbestos.

Longo once dismissed the idea of asbestos in talc as an "urban legend," but then switched after lawyers hired him in talc cases. He has also switched methods, once bragging he's "a TEM guy," for transmission electron microscopy, but later changing to polarized light microscopy. Johnson & Johnson argues judges must consider such dramatic changes in methodology when assessing whether an expert's opinions are reliable.

While Judge Shipp mulls the special master's recommendations on expert witnesses, plaintiffs face another problem. The judge has been asked to disqualify Beasley Allen after a state appellate court in New Jersey removed the firm from talc cases for strategizing with a former lawyer for J&J. Beasley Allen is locked in a fight with its former partner in talc lawsuits, the Smith Law Firm, which recently filed the [complaint of a disgruntled Beasley Allen client](#) in federal court to bolster calls for its removal from the MDL.

CVS, pharmacies lose bid to toss Philadelphia's opioid case | Pennsylvania Record

 [legalnewsline.com/pennsylvania-record/cvs-pharmacies-lose-bid-to-toss-philadelphia-s-opioid-case/article_9b83f9c5-d3e1-4257-a96a-abddcfff1151.html](https://www.legalnewsline.com/pennsylvania-record/cvs-pharmacies-lose-bid-to-toss-philadelphia-s-opioid-case/article_9b83f9c5-d3e1-4257-a96a-abddcfff1151.html)

John O'Brien, John O'Brien

March 3, 2026

CVS

<https://www.cvshealth.com/news/innovation/cvs-health-announces-steps-to-accelerate-omnichannel-health.html>

PHILADELPHIA – A Pennsylvania court has allowed Philadelphia to sue pharmacies like CVS over the opioid crisis, which the City alleged created the “largest open-air drug market on the East Coast.”

Philadelphia's lawsuit is one of thousands that have been filed around the country, leading to massive settlements with manufacturers, distributors and pharmacies. A Philadelphia judge denied the preliminary objections of CVS, Albertson's and Acme Markets, and on Feb. 27 the state Superior Court agreed.

These cases are filed under the theory of “public nuisance” and allege defendants ignored red flags in prescription records, leading to a country of painkiller addicts who eventually turned to heroin, fentanyl and other illegal drugs.

Philadelphia seeks compensation for the harm done to the community – not individual injuries. It has also sued CVS Health and [other pharmacy benefit managers](#).

CVS, in the pharmacies' case, pointed at a Commonwealth Court ruling that tossed a public nuisance claim against the manufacturers of lead paint. That court held the lawsuit failed “to allege the interference with a public right.”

But Philadelphia did sufficiently make that allegation here, the Superior Court ruled.

“To the extent the Appellant Pharmacies claim they cannot be liable for ‘another individual's user misuse of a lawful product,’ we note that the crux of the City's claim is that the Appellant Pharmacies distributed mass amounts of opioids in violation of the law and regulations to which they were beholden and, in so doing, created an opioid epidemic in Philadelphia,” Judge Judith Ference Olson wrote.

"To be sure... an example of a common law public nuisance is 'the shooting of fireworks in the public streets' – which constitutes a misuse of a lawful product that harms public safety."

The case was brought in 2021 against several defendants, many of whom have settled or declared bankruptcy. It alleged a flood of opioids endangered the public health and safety of citizens, driving up crime and illnesses like hepatitis C.

"Piles of trash, needles, and other waste" littered the City, the suit says. In the Kensington area, there was a "sprawling encampment of drug users who injected themselves with opioids and heroin in broad daylight."

Philadelphia seeks money to pay for the detox and treatment of opioid addicts. Money recovered in other cases has been earmarked for similar public-health programs – after private lawyers hired by government officials took their cut. Philadelphia hired several firms, including Baron & Budd, which holds a leadership position in federal opioid cases consolidated in Ohio.

California Brief

Consumers Revive Data Breach Suit Over Millions in Crypto Losses

March 2, 2026, 1:42 PM PST

Estonia-based 3Commas Technologies OU must face a proposed class action in a California federal court alleging its negligent cybersecurity measures caused nearly \$22 million in losses to cryptocurrency owners.

3Commas, a provider of automatic cryptocurrency-trading services, had sufficient contacts with California to establish the court's jurisdiction, a divided three-judge panel of the US Court of Appeals for the Ninth Circuit said Monday.

The panel reversed a lower court's dismissal of the lawsuit on jurisdictional grounds and remanded the case for further proceedings.

3Commas offers "bots" that carry out automatic trading at least 14 cryptocurrency platforms, including Coinbase Global Inc., Binance Holdings Ltd., and Payward Inc.-owned Kraken. Beginning in October 2022, 3Commas customers began being targeted by cybercriminals who gained access to their accounts and made unauthorized trades for lower-value cryptocurrency coins that resulted in large losses to account holders, according to the complaint filed in the US District Court for the Northern District of California.

Three months after the targeting, the company acknowledged that it had been hit by a data breach that exposed the API keys linking the automated trading bots to individual cryptocurrency accounts, the complaint said.

The plaintiffs filed the lawsuit a week after the company announcement, bringing claims of negligence, breach of contract, and violations of state consumer-protection laws, but Judge Rita F. Lin dismissed the suit for lack of jurisdiction in September 2024.

Reviewing that order de novo, the Ninth Circuit said the company's contacts with California—soliciting investors in the state, contracting with California-based Cloudflare Inc., and selling services to state residents—were enough to establish jurisdiction.

The company's privacy policy included a section on the California privacy rights, and the record showed it was aware that at least some of its users were state residents, which suggested the company purposefully directed its activities at the state, the opinion said.

3Commas disputed whether it was able to track when its software users were state residents, but "we must resolve factual disputes in Plaintiffs' favor," it said.

Adjudicating the lawsuit's claims in California was also fair to 3Commas, in part because it had already agreed to resolve any disputes with Cloudflare in the state under state law, the ruling said.

Judges Johnnie B. Rawlinson and Gabriel P. Sanchez joined the opinion.

Judge Eric D. Miller dissented, arguing the plaintiffs didn't allege facts showing that 3Commas knew its customers were in California, and that its remaining contacts with the state weren't enough to establish jurisdiction.

Wilshire Law Firm PLC represents the plaintiffs. Bryan Cave Leighton Paisner LLP represents 3Commas.

The case is Freeman v. 3Commas Techs. OU , 9th Cir., No. 24-6158, opinion 3/2/26 .

To contact the reporter on this story: Christopher Brown in St. Louis at
ChrisBrown@bloombergindustry.com

To contact the editor responsible for this story: Amy Lee Rosen at arosen@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

California Brief

Perspectives

Expect Consumer Class Actions to Rise Given State, Federal Laws

March 3, 2026, 1:30 AM PST

Professional Perspectives give authors space to provide context about an area of law or take an in-depth look at a topic that could benefit their practice.

The Bottom Line

Consumer class actions likely will be very active in telemarketing, online privacy, product labeling and marketing, and auto-renewal contracts.

Developments in both state and federal law will be worth monitoring.

Businesses should consider employing or updating arbitration clauses and class action waivers.

Last year was busy for the consumer class action space. There was substantial litigation involving staples such as the Telephone Consumer Protection Act and California Invasion of Privacy Act, along with new, fertile soil for developments affecting consumer outreach, product labeling and marketing, and consumer data collection and use.

Telemarketing's Increasing Complexity

Telemarketing activity will continue driving major litigation in the near future and the following issues, and developments in this space, should be monitored:

Telephone Consumer Protection Act: A new trend in 2025 was the proliferation of litigation premised on 47 CFR Section 64.1200(c)(1), which bars certain solicitations before 8 a.m. and after 9 p.m. local time at the called party's location. Claims included fact patterns based on communications made with consent and/or pursuant to established business relationships but premised on consumers allegedly never agreeing to specific language addressing the time of day (despite the TCPA not requiring that).

The US District Court for the District of Delaware chimed in on Dec. 30, concluding that under Section 64.1200(c)(1) "the general definition of 'express invitation or permission'" is the applicable consent standard. And that standard is satisfied when an individual "knowingly releases" their phone number.

Companies should look out for further developments in court as well as from the Federal Communications Commission in response to a petition on this issue.

Due to US Supreme Court developments over the last two years, whether text messages qualify as calls under key TCPA regulations resurfaced as a central question. Courts have issued varying decisions on the issue over the last year, and companies using texting should continue to watch this developing space.

Although no one wants to be on the receiving end of a TCPA class action, one of the most dangerous types can be a prerecorded call case. Companies have received some relief, however, as the US Court of Appeals for the Ninth Circuit on Jan. 13 found that videos embedded in text messages may not trigger prerecorded call provisions.

State law mini-TCPAs: Not to be outdone by their federal counterpart, states have pressed on with mini-TCPAs. Texas expanded its mini-TCPA last year, adding a registration requirement for businesses, and broadening the scope of solicitations potentially triggering registration requirements to include texting.

In response to ambiguity in the statute's language, parties in a case involving Texas reached a settlement that produced a joint motion prompting the US District Court for the Western District of Texas to issue an order concluding that texts made with consent don't fall within the purview of the registration requirement.

Though it's a positive development, because the decision is not binding, companies doing business with Texas consumers should monitor this area, particularly how courts treat this development. And companies in general should keep abreast of state-level mini-TCPA developments.

Online Privacy

The plaintiffs' bar has continued to reimagine how privacy laws apply in digital space. A boom in California Invasion of Privacy Act litigation last year was premised on digital technology allegedly transmitting data to third parties without adequate consent.

We anticipate these claims will continue at a high volume based on a variety of creative theories. Plaintiffs, for example, have taken the position that pixels are the equivalent of "pen registers" and "trap and trace" devices under CIPA.

Claims also included fact patterns premised on technology allegedly transmitting information simultaneously to third parties in violation of other CIPA wiretapping provisions. Variations of the foregoing included claims premised on website search bars allegedly transmitting search data.

State and federal courts have issued mixed decisions to date, creating uncertainty and an environment ripe for further litigation.

Labeling and Marketing

As consumer expectations evolve, product labeling and marketing practices have become a focal point for scrutiny by enforcement agencies and private litigants alike. From origin claims to influencer endorsements and sustainability representations, companies face mounting pressure to ensure accuracy, transparency, and compliance across all channels.

Three areas dominated the legal landscape last year and are poised to shape litigation and regulatory priorities on the horizon:

'Made in USA' claims: Reflecting the Trump administration's heightened focus on tariffs and domestic production, 2025 saw more companies incorporate country-of-origin labeling emphasizing a product's US origin into their marketing strategies.

These claims are appealing to consumers, but they draw heightened scrutiny from the Federal Trade Commission and consumer class action attorneys challenging them as false or deceptive.

The FTC declared July 2025 "Made in USA Month," issued warning letters to several manufacturers making unqualified origin claims, and settled one case for over \$3 million in penalties. The volume of Made in USA class actions nearly tripled from 2024, with one case producing a \$2.36 million jury award. This trend is expected to continue, making it critical for companies to understand and comply with applicable federal and state requirements.

Under the FTC's "all or virtually all" test, a product advertised as Made in USA must meet three core criteria:

Final assembly or processing occurs in the US

All significant processing takes place domestically

All or virtually all components are sourced from the US

The FTC permits only negligible foreign content—without defining a numeric threshold—and evaluates compliance based on both cost and functional significance. By contrast, California law imposes quantitative thresholds, allowing foreign components to comprise up to 5% of wholesale value, or up to 10% if domestic sourcing is unavailable. This creates a less stringent standard on cost, though not on functional significance, compared with the FTC's approach.

Companies should maintain detailed sourcing and production records, ensure that origin claims comply with both FTC and state standards, monitor litigation trends and enforcement developments, and use clear and conspicuous qualifications where appropriate.

Influencer marketing: This remains a powerful driver of consumer engagement, but 2025 marked a turning point in its legal landscape. What was once primarily a regulatory compliance issue governed by the FTC's "Guides Concerning the Use of Endorsements and Testimonials in Advertising" has evolved into a significant source of consumer class action litigation.

Private plaintiffs increasingly are targeting brands and influencers for allegedly deceptive practices, claiming social media posts failed to clearly disclose material connections—such as payments, free products, or affiliate links—and misled consumers into paying premium prices. These suits often seek substantial monetary and injunctive relief against companies as well as individual influencers.

This trend is expected to accelerate, making it critical for companies to understand and comply with both federal and state requirements. Developing clear guidelines, providing training to influencers and employees, maintaining rigorous monitoring systems, negotiating robust agreements, and tracking trends are all essential. By embedding strict compliance into influencer programs, companies can help reduce exposure to regulatory action and costly class litigation.

Sustainability claims and ingredient disclosures: Reflecting heightened consumer demand for transparency and sustainability, the rise of “greenwashing” litigation shows no signs of slowing.

Areas of focus include ingredient disclosure and robust substantiation. Plaintiffs challenged broad environmental claims—such as “eco-friendly,” “green,” and “carbon neutral”—in 2025, arguing that these statements lacked verifiable support.

Meanwhile, suits targeting cosmetics and personal care products center on omissions or misleading disclosures of chemicals such as PFAS, allergens, and compounds tied to health or environmental concerns. Regulatory signals reinforced this trend, with the FTC continuing to evaluate updates to its Green Guides and states such as California imposing stricter standards for recyclability and chemical transparency.

Looking ahead, companies should expect more aggressive enforcement and private litigation aimed at vague or aspirational sustainability claims. Anticipated revisions to federal guidance and emerging state laws will likely demand greater specificity and documented evidence to support environmental and health-related representations.

Failure to implement rigorous substantiation protocols may prompt regulatory investigations and parallel class action litigation. Transparency is poised to become a defining compliance priority.

Auto-Renewal Laws

An increasing number of laws regulating automatically renewing consumer agreements have joined staples such as the TCPA and CIPA.

State-level laws: For companies offering automatically renewing services across different states, keeping abreast of state law alterations will be critical. Several states have enacted laws regulating automatically renewing agreements. Features typically include provisions addressing:

- How automatically renewing agreements are presented
- Use of free/discounted trial periods
- Consent mechanisms
- Consumer notices

Cancellation options/mechanisms

California law, for example, requires presentation of automatic renewal offers “in a clear and conspicuous manner,” before fulfilling an agreement and, in some cases, in visual proximity to the request for consent. If an offer includes a free gift or trial, California requires a clear and conspicuous explanation of the future price change.

While this isn’t an exhaustive recitation, it highlights the complexity of compliance in this area, particularly when numerous state laws are triggered.

Federal laws: In July 2025, the US Court of Appeals for the Eighth Circuit vacated what would have been the federal counterpart to the state laws described above—the FTC’s negative option rule.

While the FTC’s proposed rule may be out of the picture for now, companies should keep in mind several federal laws that remain, including the Restore Online Shoppers’ Confidence Act and the Telemarketing Sales Rule.

Like some state laws, ROSCA requires clear and conspicuous disclosures, consent, and a stop mechanism for certain transactions that include a “negative option feature.” The TSR prohibits, among other things, failing to disclose material terms and conditions of a negative option feature.

Strategies for Success

Companies navigating complex consumer protection laws can position themselves for success by taking a proactive approach and, with the assistance of counsel, reviewing the following for vulnerabilities and improvement:

Data sources

Consent mechanisms

Consumer outreach efforts

Consumer agreements and notices

Terms of service/privacy policies

Websites and technology deployed on the websites

Product labeling and origin claims

Influencer marketing programs

Transparency measures

Ingredient disclosures

Companies also should consider employing (or updating) arbitration clauses and class action waivers and generally continuing to monitor relevant legal developments touching on their consumer marketing efforts, consumer interactions, and products offered.

This article does not necessarily reflect the opinion of Bloomberg Industry Group, Inc., the publisher of Bloomberg Law, Bloomberg Tax, and Bloomberg Government, or its owners.

Author Information

Esteban Morales is a member at Mintz who defends litigation and handles compliance issues related to marketing, consumer outreach, allegations of consumer fraud, and privacy.

Arameh Zargham O'Boyle is a member at Mintz who focuses her practice on defending product manufacturers in complex product liability and consumer class action litigation.

Write for Us: Author Guidelines

To contact the editors responsible for this story: Daniel Xu at dxu@bloombergindustry.com; Rebecca Baker at rbaker@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Ticketmaster keeps \$7.58 from each ticket, New York attorney says at trial

 [reuters.com/legal/litigation/ticketmaster-live-nations-antitrust-trial-begins-new-york-2026-03-03](https://www.reuters.com/legal/litigation/ticketmaster-live-nations-antitrust-trial-begins-new-york-2026-03-03)

Jody Godoy

March 3, 2026

Live Nation Entertainment and Ticketmaster logos are seen in this illustration taken May 23, 2024. REUTERS/Dado Ruvic/Illustration/File Photo [Purchase Licensing Rights, opens new tab](#)

- DOJ claims Live Nation holds ticketing and venue monopolies
- U.S. states seek damages for fans
- Live Nation says claims are baseless and will not help fans

March 3 (Reuters) - Ticketmaster keeps an average of \$7.58 of the price of each ticket for events at major concert venues, an attorney for New York state told jurors at a trial on Tuesday where dozens of states are seeking to recoup damages for fans.

Ticketmaster and its parent company, Live Nation, are accused of abusing their market power to prop up illegal monopolies in the concert industry. The trial in Manhattan could result in the U.S. Department of Justice arguing for a breakup of Live Nation and Ticketmaster or the companies paying compensation to ticket purchasers.

Sign up [here](#).

The DOJ and the attorneys general of New York and 38 other states plus Washington, D.C. claim the entertainment conglomerate dominated live-event markets in ways that hurt artists, venues and fans.

"Today, the concert ticket industry is broken, in fact the concert industry itself is broken," DOJ attorney David Dahlquist told jurors in his opening statement. "It is controlled by a monopolist. It is controlled by Live Nation."

Ticketmaster keeps more in fees than competitors such as AXS, according to an expert's estimate cited by Jonathan Hatch, an attorney for New York state. Fans in the states seeking damages are estimated to have overpaid between \$1.56 and \$1.72 for tickets, Hatch said.

"We are talking about real money coming out of people's wallets," he said.

Live Nation attorney David Marriott told jurors that Ticketmaster takes around 5% of what fans pay for tickets. The company is not a monopolist and faces fierce competition across the industry, he said.

"Every customer we get is a hard-fought battle in a competitive marketplace," he said.

Singer [Kid Rock](#) and Ben Lovett of the band Mumford & Sons are expected to testify at the trial, as are executives from rival ticketing companies and venues, including Madison Square Garden.

The DOJ alleges in the case [filed in 2024](#) that Live Nation holds illegal monopolies in certain venue and ticketing markets.

Live Nation is accused of requiring artists to use its concert promotion services if they perform at the outdoor amphitheaters it owns. The DOJ also alleges the company's Ticketmaster arm dominated ticketing services through threats and multi-year exclusive contracts with major concert venues.

U.S. District Judge Arun Subramanian [recently cut several claims](#) from the case, but rejected Live Nation's request to pause the trial to allow it to appeal.

The U.S. Federal Trade Commission has [filed a separate case](#) against Ticketmaster, accusing the company of allowing exploitative ticket resellers to flout its rules and gouge fans.

Reporting by Jody Godoy in New York; Editing by Aurora Ellis, Chizu Nomiya and David Gregorio

Our Standards: [The Thomson Reuters Trust Principles](#).  [, opens new tab](#)

Jody Godoy reports on tech policy and antitrust enforcement, including how regulators are responding to the rise of AI. Reach her at jody.godoy@thomsonreuters.com

- X

California Brief

Google, Flo Privacy Plaintiffs Want Meta's Help Contacting Class

March 2, 2026, 9:31 AM PST

Plaintiffs who obtained multi-million dollar data privacy settlements in litigation against Google LLC and Flo Health Inc. want a court to order Meta Platforms Inc. to provide more assistance finding class members.

The motion seeking preliminary approval of the deals, filed in the US District Court for the Northern District of California, included new details about how the parties plan to provide direct notice to the class.

Google collected sensitive medical information from plaintiffs through software embedded into Flo's menstrual tracking app, the plaintiffs said.

The parties had hoped to get assistance from Meta—which could face billions of dollars in damages after being found liable in a jury trial for collecting the medical data—to provide the class direct notice, particularly to members not currently associated with a valid email address. The parties have valid emails for 41% of the class.

But they've reached an impasse, the Feb. 27 motion said. Meta "refused to agree to reasonable commitments on how it would identify users and what protection it would apply to Flo's data."

Other notification efforts will include print, digital, and social media campaigns extending to more platforms, including TikTok and streaming radio. A second phase will use the results of and analytics from the initial announcement period to provide supplemental notice.

The class of American Flo app users who provided it menstruation or pregnancy information between November 2016 and February 2019 includes nearly 10 million individuals who could recover from \$12 to \$32 from the settlement, depending on the claims rate, according to the motion.

Google will pay \$48 million, and Flo \$8 million, to resolve the privacy complaint. The net settlement funds will be distributed pro rata to those who file valid claims forms. People who can demonstrate they were residents of California during the class period "will receive twice the pro rata share of those from other states."

Class counsel will ask the court for no more than a third from each of the settlements.

Cooley LLP represents Google. Dechert LLP represents Flo. Lowey Dannenberg, Labaton Keller Sucharow LLP, and Spector, Roseman & Kodroff PC are co-lead class counsel.

The case is Frasco v. Flo Health Inc. , N.D. Cal., No. 3:21-cv-00757, renewed motion for preliminary approval 2/27/26 .

To contact the reporter on this story: Ufonobong Umanah in Washington at uumanah@bloombergindustry.com

To contact the editor responsible for this story: Nicholas Datlowe at ndatlowe@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

The Audacity Of AI Incompetence

A abovethelaw.com/2026/03/the-audacity-of-ai-incompetence

Nicole Black

March 3, 2026

Another day, another fictitious case citation. Blink, and you'll miss the most recent comedy of AI-created errors.

Since the release of ChatGPT in late 2022, the frequency of court submissions riddled with AI-hallucinated gibberish has increased exponentially. Now, more than three years later, it seems that not a week goes by without a headline about yet another case in which a lawyer has submitted briefs to the court full of AI-hallucinated gibberish.

One of the standout features of many of these cases is that the attorneys double down, rather than admitting the error of their ways. Sometimes, they even submit responsive papers in defense of their actions that include hallucinations.

Of course, it's one thing to read about these shenanigans, but seeing the audacity in action during an appellate argument? Priceless. And appalling. In equal proportions.

I present to you, attorney for the appellant in *Deutsche Bank National Trust Company v. Jean LeTennier*, CV-23-0713 (2026), whose absolutechutzpah was on full display — [captured on video](#) on October 16, 2025, during an oral argument before the New York Appellate Division, Third Department.

About one-third of the way into the video, at 6:30, he faced a very hot bench. The judges were collectively, and understandably, piqued by both the number of hallucinations contained in his submissions and the fact that he seemed to be entirely unbothered by his own fictions.

When asked about his response to the allegations that he'd used AI, he appeared to be oblivious to the very admissions he'd included in his responsive papers. Rather than answering their pointed questions about the errors, he deflected and tried to avoid the topic entirely*:

The Court: The citations used in some of the cases are not real citations (to) real cases.

Counsel: (T)hat was never asserted to me.

The Court: You acknowledged it in your reply brief that some of the cases were not accurate.

Counsel: The issue that I believe is really important is the fact that fraud was...

The Court: It's important to us, so I guess you're going to have to deal with what's important to us.

The judges were not dissuaded by his obfuscation. They persisted in their questioning, forcing him to concede that there were fake cases cited in his briefs. Undeterred, he then informed the panel that the AI issue was immaterial, apparently deciding that patronizing the bench was a winning tactical move:

The Court: Did you, as an attorney, write a brief and submit it to this court?

Counsel: Yes,

Court: Okay, so you own it, right?

Counsel: Yes.

Court: Okay, in that brief, we're telling you, and you are aware ... not only were you made aware by the court, but by your adversary, that there are citations that are not real cases.

Counsel: That's not germane to the fact that the SEC is telling this court ...

Once that approach proved ineffective, he switched gears once again. When directly questioned about his AI use, he played coy, acting like a petulant adolescent who'd been caught drinking. Finding that tactic to be futile, he once again reverted to his previously unsuccessful strategy of mansplaining to the bench:

The Court: So, I guess I'm asking you, did you use AI to do the brief, and are these hallucinated cases, or did you miscite cases? Because you didn't give us any corrections ...

Counsel: AI is a tool that I think all of us use these days.

The Court: So that would be a "yes, I used AI."

Counsel: Well, not exactly. I mean, yeah, I used AI.

The Court: Okay. You've got to check AI, right?

Counsel: I do.

The Court: Well, evidently not too well, right?

Counsel: It seems like we're not able to focus on the issue that they brought it ...

When it became apparent that condescension wasn't working, he retreated to a defense of statistical probability. The exchange that followed captures the surreal moment that he attempted to treat a 'mostly accurate' brief as a job well done:

The Court: Because we're on this side of the of the bench ... that's why we're asking you about the citations in your brief that you provided to us and the response when it was pointed out that these are AI citations.

Counsel: I believe that the citations that I used were accurate, like 90% were accurate, some of them which really aren't necessarily germane to the issues at hand ...

The Court: Okay, your time is up! Thank you.

Needless to say, the court was unimpressed with his assertion that a 90% accuracy rate was a passing grade for the truth, dismissing his argument in its [written decision](#), issued in January: "(D)uring oral argument defense counsel estimated that 90% of the citations he used were accurate, which, even if it were true, is simply unacceptable by any measure of candor to any court."

In the court's eyes, a brief that is only 10% imaginary is still 100% problematic, especially when that small slice of fiction accounted for "at least 23 fabricated legal authorities across five filings ... (and misrepresenting) the holdings of several real cases as being dispositive in his favor — when they were not."

His stubborn resistance to reality was rewarded with sanctions in the amount of \$5,000 due to his refusal to take accountability for his actions: "(H)is reliance on fabricated legal authorities grew more prolific as this appeal proceeded ... Rather than taking remedial measures or expressing remorse, defense counsel essentially doubled down during oral argument on his reliance of fake legal authorities as not 'germane' to the appeal."

Importantly, the court acknowledged that AI does have a place in litigation, as long as attorneys and staff are sufficiently trained and carefully check their work for accuracy before submitting it to the court: "As with the work from a paralegal, intern or another attorney, the use of GenAI in no way abrogates an attorney's or litigant's obligation to fact check and cite check every document filed with a court. To do otherwise may be sanctionable ..."

It's a bold new era for the legal profession: one where 'mostly accurate' is a tactical hill to die on and 23 imaginary cases are just 'minor' details. As it turns out, that final 10% is the difference between a winning argument and a \$5,000 audacity tax.

* The court transcript excerpts have been lightly edited for readability and flow.

[Nicole Black](#) is a Rochester, New York attorney and Principal Legal Insight Strategist at [8am](#), the team behind 8am MyCase, LawPay, CasePeer, and DocketWise. She's been [blogging](#) since 2005, has written a [weekly column](#) for the Daily Record since 2007, is the author of [Cloud Computing for Lawyers](#), co-authors [Social Media for Lawyers: the Next Frontier](#), and co-authors [Criminal Law in New York](#). She's easily distracted by the potential of bright and shiny tech gadgets, along with good food and wine. You can follow her on Twitter at [@nikiblack](#) and she can be reached at niki.black@mycase.com.

Securities

AI to Transform How Credit Market Works, JPMorgan's Jhamna Says

March 2, 2026, 6:33 AM PST

Generative AI is set to transform the way credit traders do their jobs, as the technology is well suited to handling the unstructured data produced by the asset class, according to JPMorgan Chase & Co.'s global head of credit trading.

Credit markets are the last frontier when it comes to market automation, **Sanjay Jhamna** said in an interview with Bloomberg TV at JPMorgan's global leveraged-finance conference in Miami, adding that traditional AI models have not necessarily been a good fit for the asset class.

As firms begin to use generative AI more, the whole industry will be affected. "It will reset who can compete and how they can compete," Jhamna said, adding that winners and losers will be determined by how much companies embrace the opportunities from new technology.

Investors are currently scrambling to get to grips with the various ways AI is affecting the credit market. On one hand, there is growing anxiety that generative AI will cannibalize the business models of software issuers, a cornerstone of the leveraged finance and private credit universes. On the other hand, hyperscalers are flooding the investment-grade and infrastructure debt markets with record issuance to fund the build-out of data centers.

Current dislocations in the credit market are creating opportunities to deploy capital at interesting levels, Jhamna said. Credit is "the asset class of the moment" and noise around software is a normal part of a typical credit cycle, he said.

As for the threat that AI poses to existing borrowers, the JPMorgan banker said that it is normal for some consolidation to follow massive increases in productivity. There will also be big winners — companies that harness the power of the new technology to gain share — he said.

Read More: JPMorgan Tests 'Art of the Possible' in Leveraged Buyouts

In terms of the conflict in the Middle East, Jhamna said that JPMorgan's clients are looking past the weekend's events at the moment. Investors will be attentive to energy prices and rates, which are particularly relevant for credit, he added.

--With assistance from **Abhinav Ramnarayan**.

To contact the reporters on this story:

Bruce Douglas in London at bdouglas24@bloomberg.net;

Lisa Abramowicz in New York at labramowicz@bloomberg.net

To contact the editors responsible for this story:

Dana El Baltaji at delbaltaji@bloomberg.net

Bruce Douglas, Beth Mellor

© 2026 Bloomberg L.P. All rights reserved. Used with permission.

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

News | **Litigation**

Heavy Hitting Lawyer Steps Into Fray Against Boeing, GE

The mass torts attorney is known for high-profile cases—and some high-dollar verdicts.

March 02, 2026 at 04:43 PM By **Laura Lorek**



Plumes of smoke rise from the area of a UPS cargo plane crash at Louisville Muhammad Ali International Airport, on Tuesday, Nov. 4, 2025, in Louisville, Ky. Photo: Jon Cherry/AP

Texas mass tort attorney Mark Lanier and his Houston-based Lanier Law Firm have filed a lawsuit related to the fatal Boeing UPS airline crash in Kentucky.

Attorneys from Chicago and Kentucky have separate suits over the November crash of UPS Flight 2976 near Louisville's Muhammad Ali International Airport. And Boeing has been battling a slew of lawsuits, including litigation by a plaintiff who lost six relatives in the 2019 crash of an Ethiopian Air 737 MAX.

Now, Lanier, known for high-profile cases such as the Johnson & Johnson talc litigation, represents the wife of a pilot killed in the crash.

This is not his first case against Boeing.

Lanier [filed a lawsuit in September against Boeing and Honeywell](#) over the June 12 crash of Air India Flight 171, which killed 260 people in Ahmedabad, India.

The civil litigator draws national attention—including in his ongoing litigation alleging social media companies deliberately worked to make their platforms addictive, resulting in depression, self-harm, eating disorders, suicidal ideation and suicide, especially among young users.

In 2021 and 2022, he led a national trial team to a \$650.6 million jury verdict against Walmart, CVS and Walgreens pharmacies over opioid distribution. His law firm tallies his overall career victories as worth close to \$20 billion in verdicts.

Now, Lanier has entered an appearance for Dana Justin Diamond's spouse.

The complaint names airplane maker Boeing, engine manufacturer General Electric, and and maintenance provider VT San Antonio Aerospace as defendants. Diamond was serving as an international relief officer, and piloted the Boeing MD-11F on the cargo flight to Honolulu.

"We are deeply saddened by the loss of UPS Flight 2976. We extend our heartfelt sympathies to the families and loved ones of those impacted. Safety is our first priority, and we are supporting the NTSB's investigation," a General Electric Aerospace spokesperson said in an emailed statement.

Boeing and VT San Antonio Aerospace did not immediately respond to a request for comment Monday.

The lawsuit follows two other wrongful-death actions filed in early December in Kentucky state court by Clifford Law Office of Chicago and Sam Aguiar Injury Lawyers of Louisville.

Lanier Law Firm's complaint alleges the aircraft's left engine and pylon separated from the wing shortly after takeoff, causing a fire and crash in an industrial area south of the airport. The crash resulted in the deaths of three crew members, including Diamond, and 12 people on the ground.

"When an engine separates from a wing on takeoff, that's not an accident," alleged Mark Lanier, lead attorney for the plaintiff, in a statement. "That's a failure by the companies responsible for building and maintaining that aircraft."

Diamond worked for UPS for over 37 years, holding the top seniority position on the MD-11 and ranking fifth in overall pilot seniority.

“Dana was passionate about pilot safety and devoted to his family, friends and community,” claimed Sam E. Taylor, a senior litigation counsel with The Lanier Law Firm. “This tragedy was an absolute betrayal of everything Dana stood for and the professional and personal contributions he made in his life. Through this litigation and Dana’s sacrifice, we will learn more about the causes of this crash and steps to prevent a recurrence.”

The aircraft, converted for cargo operations and operated by UPS since 2006, was equipped with General Electric CF6 engines. VT San Antonio Aerospace performed maintenance on the aircraft in the weeks leading up to the crash.

Flight data indicates the aircraft did not reach 100 feet in altitude during its 37 seconds airborne before crashing into warehouses and other buildings at the southern edge of the airport.

The lawsuit alleges wrongful death, negligence, loss of consortium, and related damages due to the defendants’ failures that led to the engine separation and crash. It also seeks punitive damages and a jury trial.

Page printed from: <https://www.law.com/texaslawyer/2026/03/02/heavy-hitting-lawyer-steps-into-fray-against-boeing-ge-/print/>

NOT FOR REPRINT

© 2026 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).

This copy is for your personal, non-commercial use only. Distribution and use of this material are governed by our Subscriber Agreement and by copyright law. For non-personal use or to order multiple copies, please contact Dow Jones Reprints at 1-800-843-0008 or visit www.djreprints.com.

<https://www.wsj.com/us-news/law/justice-department-seeks-to-reverse-course-and-defend-law-firm-sanctions-47fa3ba3>

U.S. | LAW

Justice Department Makes Abrupt Reversal on Law Firm Sanctions

Decision comes less than a day after the Trump administration told a court it was dropping appeals of four lower-court losses

By [Erin Mulvaney](#) [Follow](#) and [C. Ryan Barber](#) [Follow](#)

Updated March 3, 2026 3:02 pm ET



The Justice Department in Washington, D.C. DREW ANGERER/AFP/GETTY IMAGES

WASHINGTON—The Justice Department told a court Tuesday that it plans to press forward with the defense of President Trump’s executive orders sanctioning law firms, a remarkable reversal coming less than 24 hours after it [asked to drop the cases](#).

The department said in a court filing that the federal appeals court in Washington hadn’t yet ruled on its request the previous day to dismiss the cases—and that it was the administration’s prerogative to pursue the appeals after all.

On Monday evening, the department had said it was [dropping its appeal](#) of four trial-court rulings that struck down Trump’s sanctions against law firms Jenner & Block, WilmerHale, Perkins Coie and Susman Godfrey.

The decision came just days before the Justice Department's written legal arguments were due to be submitted to the U.S. Court of Appeals for the District of Columbia Circuit.

All four law firms opposed the Justice Department's bid to renege on dropping the appeal, calling the move an "unexplained request to withdraw yesterday's voluntary dismissal, to which all parties had agreed," according to the court filing.

The firms had publicly declared victory just hours before, releasing statements condemning what they described as the president's overreach and touting their own willingness to stand up for democratic principles. The news jarred the industry more broadly, after many let out a collective exhale at what seemed like the end of a turbulent chapter during which they were perilously at odds with the president.

The abrupt change of heart by the DOJ was highly unusual and indicated "some level of palace intrigue," said Dennis Fan, an associate professor at Columbia Law School. "The lawyers would almost never, and certainly never in a high-publicity case like this, tell the court they were withdrawing unless they felt that they had the clear go-ahead."

Last year, Trump issued [a series of executive orders](#) against several law firms and individual lawyers, threatening to strip them of their security clearances and access to federal buildings, and directing federal agencies to end any government contracts with the firms or their clients. The law firms said the orders would be devastating to their businesses.

Judges across the ideological spectrum had ruled that the president's attempts to punish law firms amounted to unconstitutional retaliation.

Nine large law firms [made deals with the president](#) to avoid similar orders and promised nearly \$1 billion in pro bono work for causes favored by the administration.

Erin Mulvaney is a national legal affairs reporter with The Wall Street Journal. She covers the legal industry and litigation affecting business and the economy nationwide. She writes about high-profile trials, lawsuits that explore novel questions, and cases that reveal legal tensions for companies,...

Follow



C. Ryan Barber is a reporter in The Wall Street Journal's Washington, D.C. bureau, where he covers the Justice Department and legal affairs. Prior to joining the Journal, Ryan reported on the Justice Department and federal law enforcement for Insider and the National Law Journal....

Securities

Trump's Tariff Campaign Leaves Companies Rethinking Asset Values

March 3, 2026, 1:45 AM PST

Volatile US trade policy is hitting corporate balance sheets, forcing companies to reassess whether assets like goodwill and inventory are still worth what managers paid for them.

A fresh slate of US tariffs will ripple through corporate financial statements in the wake of the Supreme Court's February ruling that struck down levies the Trump administration imposed on imports from dozens of countries last April. Replacement tariffs of 10% that kicked in Feb. 24 could remain in place into July.

The administration meanwhile is weighing a menu of other trade restrictions, including additional import duties, even as hundreds of companies have lined up to seek refunds.

That uncertain landscape leaves US companies grappling with weaker customer demand, higher costs for goods and materials, and softer profit margins—all triggers for potential asset write-downs. Impairment charges flow through income statements and would dent profits.

Balance sheet pressures are already emerging.

Church & Dwight Co. Inc., the home and personal care products maker, warned investors in February that economic conditions and continued performance problems could spur an impairment of the \$644.7 million book value of its Waterpik trade name.

Asset values from real estate to heavy equipment remain in flux a year after automakers booked multi-billion dollar write-downs for their electric vehicle lines due to shifting environmental priorities under the Trump administration. Retailers took smaller charge-offs for inventory and supply chain shifts, like AEO Inc.'s \$17 million impairment last spring.

Toymaker Hasbro Inc. pointed to tariffs as the driver for a review of its consumer products line, which was hit by revenue declines for toys and games as retailers retooled their inventory strategies. That led to \$1 billion in goodwill impairment costs in 2025.

"You may have slowing economic demand, and you could have rising costs," said Jed Neilson, associate accounting professor at Penn State University. "Those are probably the two biggest forces that are going to be driving potential write-downs."

Economic Reality

Impairments costs reflect investments that ultimately didn't meet revenue expectations and the cash spent or debt acquired to purchase them.

"It's accounting reflecting the change to economic reality," said Patrick Badolato, accounting professor at the University of Texas at Austin.

Duties targeting various countries have pushed up costs to produce components for manufacturers and consumer products for retailers. Companies that couldn't sell those goods at a price to recoup those higher operating costs would likely book an impairment charge.

Inventory write-downs are more straightforward than determining whether goodwill or other long-lived assets should be marked down. Goodwill represents the excess value between the price paid for an acquired product line or business and its book value. An intangible asset, goodwill is based on forecasts and can be tricky to gauge.

On the balance sheet, goodwill captures the value of a brand, a skilled workforce, or even potential future earnings.

"Acquisitions made prior to tariffs now have to be re-evaluated through the lens of the tariff world and that means our inputs in terms of revenues and expenses, which translate to cash flows, should be worse," Badolato said.

Complex Scenarios

Fresh tariffs enacted in the wake of the Supreme Court ruling bring more complexities for corporate accountants to untangle. That includes weighing a mix of possible trade restrictions when projecting out future cash flows and estimates that back valuations.

Corporate accountants have been looking at those cash flow models more frequently over the past year, watching for triggers that would require impairment testing, said Lara Long, managing director with Riveron's accounting advisory practice. That will continue for now, she said.

"It's very volatile and its very uncertain and it just means that CAOs and CFOs have to be much more vigilant," Long said, referring to chief accounting officers and chief financial officers.

A range of factors could spark asset reviews, including the loss of a big customer or a factory closure. But large economic shifts also would trip those accounting assessments.

Normally those reviews are performed annually—often at the start of the fourth quarter.

Companies are likely to conduct those assessments quarterly this year, especially if the changes could be significant, said Shripad Joshi, managing director and accounting officer with S&P Global Ratings.

Corporate managers will have to weigh both the high court's ruling and the administration's quick rebuke as they consider the staying power of the tariffs and what that outlook could mean for their business.

"If the duration or persistence of the tariffs goes up, that's where you get a higher likelihood of a write-down," Neilson said.

To contact the reporter on this story: Amanda Iacone in Washington at aiacone@bloombergtax.com

To contact the editors responsible for this story: Amelia Gruber Cohn at agrubercohn@bloombergindustry.com; Andrea Vittorio at avittorio@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Law School Tells Students, 'You MUST Be Aligned Politically With President Trump,' For Summer Job

A abovethelaw.com/2026/03/law-school-tells-students-you-must-be-aligned-politically-with-president-trump-for-summer-job

Joe Patrice

March 3, 2026

In *The Hunt for Red October*, we learn that Soviet submarine carried a “political officer,” a Communist Party appointee whose job wasn’t navigating or torpedoing things, but making sure everyone on board remained sufficiently loyal to the regime. Not to spoil a 42-year-old book, but the Red October had — against all odds in the Soviet Navy — been staffed by officers who had slipped through the thought police cracks, rising through the ranks and now wanting to defect. And so the political officer “slipped on some tea” a few pages in.

But “political officer” concept struck American audiences at the time as both absurd and a testament to the USSR’s ultimate fragility. The government’s hold on power had grown so flimsy that it willingly traded competence for lockstep compliance. The political officer served as a symbol of the USSR’s institutional rot.

Anyway, in 2026, the Trump administration is conducting 1L job interviews with a White House official sitting in to vet the political loyalty of each candidate.

An email sent to Liberty University School of Law students over the weekend lays out, in refreshingly unvarnished terms, what the administration’s hiring pipeline actually looks like. And it’s exactly as bad as everyone suspected:

The two most important requirements are you MUST be aligned politically with President Trump and his administration and you must be willing to work hard. Don’t be scared off by the transcript requirement. GPA is not a strong factor. If you meet those two requirements, you have a shot.

Imagine a career services office writing this paragraph and not expecting it making a laughingstock of the law school? “GPA is not a strong factor” doesn’t make for a ringing endorsement of any law school’s mission. Telling students at a law school ranked in the 140s that their GPAs don’t matter if a candidate is politically correct enough is just open mockery of the curriculum.

But that’s the “anti-DEI meritocracy” for ya.

It's also why the [Pentagon doesn't want its future lawyers to be the sort of people capable of a T14 education](#). Government jobs used to be the province of high achievement. Or nepotism. Now it's about rewarding FedSoc's weakest warriors. And nepotism.

And political alignment almost certainly trumps "willing to work hard," because it's not even clear what hard work would look like at this ironically named Department of Labor. Secretary Lori Chavez-DeRemer is the subject of [an inspector general investigation](#) into travel fraud, alleged inappropriate relationships with subordinates, drinking on the job, and staff trips to strip clubs. Her chief of staff and deputy chief of staff have both been placed on leave during the probe, and investigators have now [expanded their examination](#) to whether grants were improperly directed to favored political operatives.

Oh, and her husband has been [banned from the Department of Labor's headquarters](#) after multiple female staffers accused him of sexual assault.

Those selected for interviews will meet with a 2025 Liberty graduate currently working as a Policy Advisor at the Department of Labor *as well as* "a representative of the White House Liaison Office." According to the email, this dynamic duo — a first-year graduate and some cross between the Red October political officer and ersatz Jonah Ryan — will conduct interviews that:

will be a combination of traditional interview questions and political questions (i.e., did you vote for President Trump? Do you disagree with the President on anything? What do you think about XYZ executive order?). If you get selected for an interview, Ms. Smith or I are happy to meet with you to help prepare.

I don't know what's more disturbing: probing candidates about their secret ballot as a condition of government employment or that anyone would need interview prep for this.

Q: Did you vote for President Trump?

A: No... oh, fuck, can I try that one again?

That might be unfair though. For a school that bills itself as "Training Champions for Christ since 1971" it must take some work to tune out the hush money for sex with a porn star and the sexual assault adjudication and everything about the Epstein files when answering, "Do you disagree with the President on anything?"

The email closes with an encouragement that Liberty Law would love to get “double digit” students into the program this summer. That’s going to take a level of denying that would make Peter blush!

Now, the email does note that “this is a political position in which interns will serve the Trump Administration for the duration of their internships,” which means the administration will argue these are political appointee positions. But this is, in itself, bogus. The Department of Labor doesn’t need 1L summer political positions. Or, maybe they do, if they’re just looking for anyone over there able to make it through a day on the job without getting drunk at a strip club. But in the *normal* course of business, bottom rung interns aren’t political roles. They might have been expected to perform work for political appointees, but they were not expected to swear that they’re in the bag with every unrelated presidential directive.

And the email begins by noting that the Department seeks “students (1Ls & 2Ls) interested in all kinds of areas: litigation, appeals, regulations, policy, etc.” Right off the top, the email acknowledges that they’re looking at roles that are traditionally handled by apolitical career employees.

But this is consistent with the Trump OPM “[merit hiring plan](#),” which replaces merit with essay questions about advancing Trump’s executive orders for positions GS-5 and above. It’s the human resources blueprint that landed [a 22-year-old Trump campaign worker with no national security expertise](#) who got promoted to lead terrorism prevention at the Department of Homeland Security.

[Legal scholars have noted](#), this approach runs headlong into *Elrod v. Burns*, where the Supreme Court held that only policymaking positions could be assessed based on political loyalty, and explicitly rejected “efficiency” and “loyalty” as justifications strong enough to overcome First Amendment protections for government employees. But if you redefine a 1L summer job as “policymaking,” you can redirect work to give a career boost to political acolytes from TTT programs.

The LSAT is probably woke anyway, amirite?

This is the whole government hiring endgame. The conservative legal movement fought for years to reclassify career government positions as at-will political employees through Schedule F and various rebrands. Now they’re filling those positions with ideological loyalists — people screened not for competence but for their willingness to answer “did you vote for President Trump?” correctly. Don’t be surprised when a future Democratic administration tries to replace these hires and

the very same conservatives howl about "politicization of the civil service" and "illegal purges." It's a heads-I-win-tails-you-lose proposition designed to populate the government bureaucracy with a Fifth Column to frustrate future policy action.

A summer position isn't embedding itself like a chigger into agency roots, but it's representative of the staffing philosophy transforming tasks, no matter how mundane, into political positions.

Someone needs to train the future Red October political officers of tomorrow! And to stan for this administration, a good GPA is not only not a strong factor, it's certainly a detriment.

[Joe Patrice](#) is a senior editor at Above the Law and co-host of [Thinking Like A Lawyer](#). Feel free to [email](#) any tips, questions, or comments. Follow him on [Twitter](#) or [Bluesky](#) if you're interested in law, politics, and a healthy dose of college sports news. Joe also serves as a [Managing Director at RPN Executive Search](#).

NewsRoom

3/3/26 Plain Dealer (Clev.) 1
2026 WLNR 6419281

Cleveland Plain Dealer

Copyright (c) 2026 The Plain Dealer. All Rights Reserved. Used by NewsBank with Permission.

March 3, 2026

Section: A

A dead man's actions take center stage at bribery trial Sam Randazzo died by suicide in 2024 after being accused of accepting \$4.3M from FirstEnergy...

Adam Ferrise - aferrise@cleveland.com

A dead man's actions take center stage at bribery trial Sam Randazzo died by suicide in 2024 after being accused of accepting \$4.3M from FirstEnergy in exchange for favorable regulatory rulings.

Two former FirstEnergy executives have spent weeks in an Akron court facing corruption accusations. Yet much of the conversation has focused on a dead man: Sam Randazzo.

Randazzo's death has cast a wide shadow over the trial of the company's ex-CEO Chuck Jones and ex-lobbyist Michael Dowling, who are accused of bribing the former state utility regulator.

For more than a month, prosecutors and defense attorneys have sparred over Randazzo's motivations, decisions and his relationship with FirstEnergy.

One aspect remains uncontested: Both sides have portrayed Randazzo as a corrupt attorney and conman who leveraged his reputation as one of the state's top energy attorneys to steal from his clients and hide it from nearly everyone, including his longtime secretary Deb Ryan.

"I have a hard time processing that he was doing anything, I guess, illegal or unethical," Ryan said during a deposition played at trial.

At times, testimony has focused more on Randazzo than Jones or Dowling. On Monday, a Public Utilities Commission of Ohio deputy director continued testifying about Randazzo's actions during his stint as PUCO chairman from April 2019 to his resignation in November 2020.

Randazzo died by suicide in April 2024 after being charged by both state and federal prosecutors. He was accused of accepting a \$4.3 million bribe from Jones and Dowling. In exchange, prosecutors say he issued regulatory rulings worth millions to FirstEnergy and lobbying on behalf of scandal-ridden House Bill 6, which gave a \$1 billion bailout to two aging nuclear power plants.

After Randazzo's death, a shell company that he owned pleaded guilty in the case and agreed to pay \$2.2 million in penalties and restitution. In 2021, FirstEnergy admitted to bribing Randazzo and former Ohio House Speaker Larry Householder, who is serving a 20-year federal prison sentence for accepting \$60 million in FirstEnergy bribes to help pass HB 6.

Testimony so far has painted a picture of a man who lived a double life.

A former University of Akron basketball team equipment manager, Randazzo became one of the most prominent electric utility attorneys in the region, who actually worked against utilities.

Randazzo argued in front of the PUCO that his clients - trade groups made up of some of Ohio's largest industrial and commercial businesses- should be charged less for the huge amounts of FirstEnergy electricity that they used.

One of his clients, Matt Brakey of Brakey Energy, testified that he trusted Randazzo "implicitly" and viewed him as something of a mentor. Brakey was part of IEU-Ohio, one of the trade groups that Randazzo represented.

Randazzo, however, simultaneously worked for FirstEnergy under a \$2.1 million consulting contract inked in 2013. He also secretly stole money from his clients from settlements, including with FirstEnergy, both prosecutors and defense attorneys say.

Randazzo, who Ryan described as something of a workaholic, was set to retire in 2018 and leave Ohio for Florida, even getting a Florida driver's license.

But a request from incoming Ohio Gov. Mike DeWine changed everything. DeWine asked him about becoming PUCO chairman, a cabinet position that carried heavy sway over how much money FirstEnergy could pull in. When Randazzo considered it, his longtime assistant was shocked.

"I thought he was nuts," Ryan said during her deposition, adding: "Why not retire and enjoy life? Why retire and go work?"

At the heart of the case is the \$4.3 million payment that prosecutors say was a bribe.

Witnesses, including some inside FirstEnergy, said they were confused by it. Some thought it was an extension of the 2013 consulting contract. Others said it was a settlement extension in 2015 that Randazzo secretly negotiated on behalf of IEU-Ohio in 2015, without his clients knowing.

Prosecutors say once Dowling and Jones learned that Randazzo was going to be PUCO chair, they hashed out a deal with Randazzo to pay him the \$4.3 million early.

Testimony showed Dowling pushed for FirstEnergy officials to pay Randazzo the money, and Jones signed off on the payment.

Defense attorneys say the contract was a legal settlement and pushing up the payments – scheduled to be made annually through 2024 - was a business move to clear future expenses off its books after a particularly successful 2018. They said Jones and Dowling didn't know Randazzo planned to keep the money.

Ryan said Randazzo only mentioned the \$4.3 million payment once.

"He did say he [FirstEnergy] wasn't obligated to make the payment, but he thought they would," Ryan said, adding that she didn't know why Randazzo believed FirstEnergy wasn't obligated to pay.

Randazzo began his shortened term at PUCO in April 2019. That same month, Jones and three other FirstEnergy executives stopped by Randazzo's vacation home in Naples, Florida.

Dennis Chack, then a FirstEnergy senior vice president, testified that Jones asked Randazzo about several issues important to FirstEnergy, including HB 6. Jones then sent the other executives outside so he and Randazzo could have a private, 10-minute chat, Chack said.

While leaving, Chack asked Jones what he thought of Randazzo.

"He's a good friend to the company," Jones said, according to Chack.

Randazzo went on to help draft the HB 6 legislation that passed in July 2019, inserting language into the bill that guaranteed FirstEnergy would lock in profits at 2018 rates.

In August of that year, Randazzo first asked PUCO staff to kill a scheduled review of FirstEnergy's finances that would have scared off investors and caused profits to plummet, according to Greg Price, the PUCO's deputy legal director.

Price testified on Friday that he pushed back and Randazzo left it alone.

About three months later, in November, he sent word back to Price through an aide to insert language into a PUCO decision to kill the rate review.

Price said that Randazzo, who witnesses testified could be prickly when confronted, didn't push back the second time.

"I had worked with Mr. Randazzo for many months at that point," Price said. "And I felt like if he asked me for a second time, there would be no pushing back."

---- Index References ----

Company: FIRSTENERGY CORP; PUBLIC UTILITIES COMMISSION; OHIO HOUSE APPRAISERS, INC; BRAKEY ENERGY INC

News Subject: (Corruption, Bribery & Embezzlement (1EM51); Crime (1CR87); Criminal Law (1CR79); Fraud (1FR30); Government Litigation (1GO18); Legal (1LE33); Social Issues (1SO05))

Industry: (Electric Utilities (1EL82); Energy & Fuel (1EN13); Utilities (1UT12))

Region: (Americas (1AM92); Florida (1FL79); North America (1NO39); Ohio (1OH35); U.S. Midwest Region (1MI19); U.S. Southeast Region (1SO88); USA (1US73))

Language: EN

Other Indexing: (University of Akron; FirstEnergy; Public Utilities Commission; Ohio House; Brakey Energy) (Sam Randazzo)

Edition: PDMN News

Word Count: 1019

NewsRoom

3/2/26 Akron Beacon J. (Ohio) (No Page)
2026 WLNR 6337134

Akron Beacon Journal (Ohio)
Copyright © 2026 GANNETT

March 2, 2026

Witness says Randazzo told him to nix 2024 review of FirstEnergy rates
Public Utilities Commission of Ohio employee testifies that Sam
Randazzo directed him to quash a FirstEnergy rate case filing requirement.

Patrick Williams, Akron Beacon Journal

The Public Utilities Commission of Ohio's deputy legal director testified Feb. 27 that former commission chair Sam Randazzo directed him in 2019 to write in an agency filing that FirstEnergy wouldn't need to file a base distribution rate case in 2024.

State witness Gregory Price said that at the time, when he was senior administrative law judge at the PUCO, Randazzo told him to insert language eliminating FirstEnergy's requirement to file a base rate case in 2024 into one of the agency's cases involving the Akron-based utility.

Prosecutors in the criminal trial of former FirstEnergy executives Chuck Jones and Michael Dowling allege the defendants bribed Randazzo with a \$4.3 million payment in exchange for policy that financially benefited FirstEnergy — including removing the requirement to file a base rate case.

Base distribution rate cases before the PUCO determine how much utilities can charge customers for the distribution portion of their bills, which is different from the supply side of their bills.

Eileen Mikkelsen, former FirstEnergy vice president of rates and regulatory affairs, and other trial witnesses have testified about how company executives were concerned in the late 2010s about a gap between expenses and revenues continuing, which executives believed would cause the PUCO to reduce FirstEnergy's rates in 2024.

In 2019, before Randazzo asked Price to add the language, the Ohio Supreme Court had struck down FirstEnergy's distribution modernization rider that was bringing revenues into the company, Price said.

"I requested to meet with Mr. Randazzo because I had reasons why I thought this was not the appropriate vehicle to eliminate the rate case requirement," Price said.

However, Price said he never met with Randazzo about his concerns. He said he raised the issue with Randazzo's aide and thought he talked with his direct supervisor about it.

When the aide later instructed Price to insert the language into the case file, the witness said he obliged. Price said he believed the aide passed along the instruction from Randazzo.

Under cross-examination by Dowling attorney Steve Grimes on March 2, Price said his concerns about including the language were about policy, not about violation of any law.

Further, Price testified under cross, it was his job to come up with the most persuasive legal argument. All five of PUCO's commissioners agreed with the paragraph that Price wrote in the filing, Price confirmed with Grimes.

The Office of the Ohio Consumers' Counsel, a state agency that advocates on behalf of residential utility customers, filed a brief stating its opposition to the elimination of the rate case requirement, Price said.

The commission voted again in favor of removing the requirement, this time 4-1, he said.

Randazzo, who defense attorneys say stole money from FirstEnergy rather than receiving a bribe from the defendants, died in 2024.

Patrick Williams covers growth and development for the Akron Beacon Journal. He can be reached by email at pwilliams@gannett.com or on X @pwilliamsOH. Sign up for the Beacon Journal's business and consumer newsletter, "What's The Deal?"

This article originally appeared on Akron Beacon Journal: Witness says Randazzo told him to nix 2024 review of FirstEnergy rates

---- Index References ----

Company: FIRSTENERGY CORP; PUBLIC UTILITIES COMMISSION; THE SUPREME COURT OF OHIO

News Subject: (Corruption, Bribery & Embezzlement (1EM51); Crime (1CR87); Criminal Law (1CR79); Fraud (1FR30); Government Litigation (1GO18); Judicial Cases & Rulings (1JU36); Legal (1LE33); Social Issues (1SO05))

Industry: (Electric Utilities (1EL82); Energy & Fuel (1EN13); Utilities (1UT12))

Region: (Americas (1AM92); North America (1NO39); Ohio (1OH35); U.S. Midwest Region (1MI19); USA (1US73))

Language: EN

Other Indexing: (PUCO; Office of the Ohio Consumers' Counsel; FirstEnergy; Public Utilities Commission; Ohio Supreme Court) (Sam Randazzo)

Keywords: (Summit County, OH, Ohio, FirstEnergy, Business (activity), Legal Proceedings, Court proceedings, Prosecution (legal), Akron, OH, Corporate management, Corporate leadership, Electricity, Utilities, Public Utilities Commission of Ohio, Crime & Justice, Courts & Judiciary, Energy & Utilities, Government, Local News, Electricity, Legal, Business & Corporate Law, Politics, OH Content Sharing)

Word Count: 511

End of Document

© 2026 Thomson Reuters. No claim to original U.S. Government Works.

NewsRoom

Securities

Manage Newsletters

Matt Levine's Money Stuff: Everyone Wants a Pension

March 3, 2026, 11:15 AM PST

People are worried about private credit liquidity

The basic situation is that people work for about 40 years, during which they earn more money than they spend, and then they retire and don't work for about 30 years, during which they spend more money than they earn. That's a very broad statement, you could quibble with the numbers, and it is certainly not true of everyone: Some people retire early, some retire late, some die young, some live a long time, etc. But as a rough statistical average, most people get some decades of saving in the workforce and then some decades of spending in retirement.

At that rough statistical level, you could model out how much the people need to save in the first 40 years to be able to afford their lifestyle in the next 30 years. The model is of the form "if you invest X% of your income during your working years, and your investments return Y% per. year, then in retirement you can draw down Z% of your investments each year to continue to live a similar lifestyle," something like that. (Popular numbers include 15% for X, 7 or 8% for Y and 4% for Z, though this is not investing advice.)

If you do this in your own life, and calibrate the model exactly right, and all of your assumptions work out, then you will maintain a consistent lifestyle for the whole 70-year period and run out of money on the day that you die. But almost nobody will actually achieve that, or probably even want to. Some people will save more or less, some people will get higher or lower investment returns, some people will live longer or shorter than expected, etc. Also, of course, lots of people *won't* calibrate the model exactly right, or model this out at all, or save money. So a lot of people will die with money left over, and a lot of other people will run out of money too soon.

But at a level of statistical aggregates, it's easier to get things right: Some people will have too much, some people will have too little, but they will cancel each other out and there will be enough money *in aggregate*. In other words, this problem is one that is natural to address with *risk pooling*: If everyone saves the same share of their income in the same pot, they can all replace the same share of their working income during retirement, and people who for whatever accidental reason have too much will subsidize the people who for whatever accidental reason have too little.

This is of course the theory behind defined-benefit *pension funds*; it is also loosely speaking the theory behind Social Security in the US. But retirement saving in the US has been privatized over the years, and now the normal way for US workers to save for retirement is with "defined contribution" plans, 401(k) plans or individual retirement accounts or other private investments. Those *don't* pool risk: You're on your own, and at risk of saving too much or too little.

It used to be conventional to say that the shift to 401(k) and IRA retirement savings was a huge victory for Wall Street: It turned tens of millions of people into investors, which means that it turned them into *customers of Wall Street*, and Wall Street wants customers. Of course pension funds are customers of Wall Street too; replacing pensions with 401(k)s added some customers and subtracted some others. But broadly speaking you could imagine – and people did imagine, and it was probably true – that converting 100 pension funds into 10 million individual investors would be a net gain for Wall Street. Presumably the 100 pension funds were run by smart professional managers who would do things like negotiate lower fees for their clients, or say “no” when brokers came to them with stupid investment ideas. Whereas the 10 million individuals will pay full fees and say “yes” to all sorts of dumb ideas.

I want to argue that this intuition is less true than it used to be, and in fact seems to be moving in reverse. A central theme of US finance in the 2020s might be that big financial institutions *don't like 401(k)s*. Oh, they don't put it like that, or probably even think it explicitly. What they say is that the structure of retirement savings *needs to change* to create more opportunities for individual investors to get better investments.

Why? Here are, I think, two salient features of 401(k)s:

1. They pay low fees! It turns out that, for a variety of cultural and *regulatory* but mainly *litigation reasons*, 401(k) plans tend to invest mostly in very low-cost passive funds (index funds and target-date funds made up of index funds).
2. They do not pool actuarial risk: Each person's 401(k) account is separate from everyone else's; each investor makes her own decisions about how much to save and what to invest in and when to retire and how much to withdraw. Some people will want their money back tomorrow; some will move money frequently between investments; some will ignore it forever.

If you want to know what “Wall Street” wants to sell to individual retirement investors in 2026, the answer is quite obvious: Wall Street wants to sell them *private equity* and *private credit* investments. Why does Wall Street want to do this? Well:

1. For a variety of structural reasons, a lot of cool stuff is happening in private markets, and the public stock and bond markets are less representative of total economic activity than they used to be. A lot of *high-growth companies*, and a lot of high-return investments, are in the private markets. To the extent Wall Street is looking out for the best interests of individual retirement savers, Wall Street wants to get those savers access to the good private investments.
2. The *fees in private markets are much higher* than the fees in public markets. If Wall Street is selling index funds to retirement savers, it's making a few basis points in fees. If it is selling private equity and private credit, it can make a few percentage points. To the extent Wall Street is looking out for itself, Wall Street wants to get paid 100x as much for private investments as it does for public investments.

But there is a problem, or rather there are two problems. One is a boring obvious legalistic problem, which is that you're *not really supposed* to sell private investments to millions of individual investors; that's what "private" means. (And, relatedly, you're not supposed to sell risky high-fee investments to 401(k) plans, because 401(k) plans have fiduciary obligations that are often interpreted to mean that they shouldn't pay high fees.) The solution to this problem is mostly lobbying, and that seems to be going very well. Everyone assumes that private assets will become a bigger part of retirement savings, and that regulators in the Trump administration will be fine with that.

The other problem is what I guess you would call "*people are worried about private market liquidity*." The nice thing about selling private investments to a pension fund is that the pension fund has a really good idea of when it will need its money back: Some of its beneficiaries will retire each year and start drawing pensions, some of its beneficiaries will die each year and stop drawing pensions, and all of this is, at a level of statistical aggregates, pretty predictable. So if you go to a pension fund and say "hey I have a cool private equity or private credit investment for you, but you will need to lock up your money for seven years," the pension fund will say "sure, we won't need most of this money for seven years, so we can lock it up if that will earn us a higher return."

And private investments *do* need to be locked up for long periods. That's the other thing that "private" means: They don't trade continuously in public markets. If you are investing in OpenAI equity or data-center loans, you can't easily get your money back tomorrow, so you don't want your own investors to ask for their money back tomorrow. If all your investors ask for their money back, you will have to sell those data-center loans in an opaque and restricted market, and you'll probably get a bad price.

But when you sell private investments to thousands of individual investors, they don't have the actuarial risk pooling that a pension fund has. Some of them are 45 years old, don't plan to retire for 20 years, have plenty of money and really *should* be able to lock some of it up for seven years – but are they *sure*? What if they have a medical emergency tomorrow and need their money back? The individual retirement savers have to manage their own risks, so they *want liquidity*; they don't want to lock up their money the way a big pooled institutional investor would.

And so if you sell private investments to thousands of individual investors, you have to make them some promise like "you can get your money back whenever you want." Or perhaps you make a promise like "you can get some of your money back sometimes," but the investors hear "I can get my money back whenever I want."

As an actuarial matter this isn't that bad, because after all *you* are doing some pooling: If you raise money from 10,000 individual retirement savers, *most* of them won't need their money back for 20 years, so you can safely invest 95% of it in long-term private investments and keep 5% to meet a few withdrawal requests. In fact a lot of retail-oriented private-market funds offer liquidity in a form like "we will let people withdraw money every quarter, but capped at 5% of the fund's assets each quarter." Should be fine for most people's needs.

But the problem is not “some of my investors have medical emergencies and need their money back.” The problem is “there are bad headlines about private credit and *all* of my investors want their money back.” If you offer your retail investors liquidity, they will use it, in a correlated way and at the worst time: not when they need the money for retirement, but when they see some bad news on television and panic.

And then – as Blue Owl Capital Inc. [indicated recently](#) – you have a problem. If you let them all take their money out at once, then you have a “run on the bank,” you have to sell your private assets, the whole point of those assets is that you *can't* sell them quickly or efficiently, the market is nervous anyway, and so your investors lose money. If you *don't* let them all take their money out at once, then you have a marketing problem: They all *want liquidity*, and if you can't give it to them then they will go back to their low-cost index funds and never invest in private markets again.

What you want, in other words, is a *pension fund* for a client. What you want is one big client who pools the funds of a bunch of retirement savers, locks up their money, tells them “don't you worry about this but in 20 years, when you retire, you'll have income,” and then is able to make its own investment decisions, take long-term risk and earn a liquidity premium.

And so for instance Apollo Global Management Inc. has Athene. Athene is often described as an “insurance company” owned by Apollo, but I tend to think of it as an “annuity company,” and Apollo describes it as a “retirement services company.” The business model of Athene is that individual retirement savers give it money and it promises them a steady income in retirement. That is: It pools people's money and gives them pensions. It has reasonably predictable cash needs, so it can lock up a portion of its money in long-term illiquid investments. (With, for instance, Apollo.) Other big private equity and private credit firms also have life insurance/annuity companies as clients, and/or own those companies themselves, because those are the ideal retirement-savings clients. Taking money *directly* from individual investors creates liquidity risk, but taking money from individual investors *through annuity providers* mitigates that risk. Not entirely – annuity policies can typically be canceled – but psychologically “I have locked up this money to be a pension” makes cancellation less likely than “this is my investment account that I check every day.”

It would be interesting if the story of the next decade in retirement investing is a move *back* to something like pensions, an increasing emphasis on pooled guaranteed-income vehicles rather than atomistic individual self-managed lump-sum investment accounts, because those vehicles are better for private-market investing, and everyone is solving for private-market investing. Bloomberg's Silla Brush and Suzanne Woolley report today :

BlackRock Inc. called for more active management and the inclusion of private assets in 401(k)s, contending index investing alone is no longer sufficient to manage risk and fund retirements that can now stretch for decades.

“There needs to be an evolution away from this being indexed only,” Nick Nefouse, global head of retirement solutions at the firm, said in a phone interview, adding that increased volatility and concentration in stock market indexes necessitates more active management. “The markets are evolving to a point where there needs to be more of an oversight.”

The world's largest asset manager published research on Tuesday arguing that a defined-contribution plan such as a 401(k) should no longer be considered a "nest egg" but rather a "paycheck for life" that potentially includes a guaranteed income. The firm is looking to include actively managed and private assets alongside index funds.

As an arithmetic matter it's not that hard to toggle between viewing a 401(k) as a "nest egg" and a "paycheck for life." (Just spend 4% of the nest egg per year.) But as a psychological matter, you might want your "nest egg" – a lump sum whose value you track – to be liquid; if your "nest egg" is invested in stuff with scary headlines, you will want to move it somewhere safer. Whereas if BlackRock is offering you a guaranteed "paycheck for life" then BlackRock can generate that paycheck however it wants, private credit, go nuts. And:

The firm plans to debut target-date retirement funds this year that include alternative assets. Private credit is a likely place to start because private equity deals are less liquid and there have been fewer of those opportunities in recent years, according to Nefouse. ...

BlackRock would add private debt slowly to actively managed target-date funds that hold a variety of stocks, bonds and other assets, according to Nefouse.

Again, "10% of my target-date fund is in private credit" is psychologically a bit different from "10% of my retirement portfolio is in private credit." If you are managing your own portfolio, and you get worried about private credit, you'll (try to) move your money out of it. If your retirement portfolio is in the "I plan to retire in 2050 and I'll let BlackRock figure out how to get there" product, then there's a better chance you'll ignore the news and wait until 2050 to take your money out. So BlackRock might as well take some liquidity risk with that money.

Elsewhere in this stuff:

"Wealthy investors who ploughed hundreds of billions of dollars into private credit are pulling back, cutting off a key source of funds that investment giants including Blackstone, Blue Owl and Ares Management have used to fuel their growth. ... This 'will really freeze the retail channel,' said the head of one private credit firm. 'I think you'll have really high bars to invest. This will put a headwind on the retail channel – not just for Blue Owl, but for everyone.'"

"Blue Owl's crisis isn't the result of a souring credit cycle. So far, most of its borrowers are paying their loans. Instead, the troubles stem from the firm's big bet on technology lending, its heavy marketing of funds to individual investors—who tend to be flightier—and a series of missteps that snowballed out of control."

"Blackstone Inc. is allowing investors to redeem a record 7.9% of shares from its flagship private credit fund, the latest sign of unease in an industry that's faced a wave of withdrawals."

"One of Goldman Sachs Group Inc.'s private credit chiefs said limits on fund withdrawals are 'features and not bugs,' as the \$1.8 trillion market comes under increasing pressure from investors looking to exit. ... Gating allows 'the fund to actually protect the investor and the fund from the kind of value degradation that

can happen in the context of fire sales,' Vivek Bantwal, Goldman Sachs Asset Management's global co-head of private credit, said at the Bloomberg Invest conference Tuesday in New York." That is completely correct, but just *telling* people that doesn't do any good. You want some structure so that people *don't* all ask for their money back at once, or at least don't get mad if you don't give it to them.

"Capital Group and KKR & Co. are taking the next step in their push to sell retail investors on private equity , launching a fund that combines bets on private companies with US stocks."

"Blackstone Inc.'s \$55 billion real estate fund for wealthy individuals last month took in more money from investors than it paid out for the first time since 2022, a sign of rebounding sentiment in the commercial-property sector." BREIT was gating individual-investor redemptions long before Blue Owl made it cool, but eventually things improved.

War markets

Sure:

The US attack on Iran was preceded by a number of unusually large and well-timed bets that made a combined profit of \$330,000 and were placed by 12 suspicious accounts in the days before Saturday morning's air strikes.

The FT has identified wallets on online prediction market Polymarket that collectively placed \$66,993 in wagers that an attack would come by Saturday. About half of the bets made by these accounts came in the six hours before the strike.

This is going to happen any time any country is bombed for the rest of human history, isn't it? Every time bombs are dropped, someone will make money on it in the gambling markets. Doesn't that seem distasteful? As we discussed yesterday , US prediction-market regulation (which does not quite apply to Polymarket) halfheartedly bans betting markets on war, but it seems like they are here to stay anyway.

Also of course US regulation probably bans *insider trading* on these markets, but ask yourself if the Trump administration wants to prosecute anyone who might have used inside information about the attacks on Iran to bet on Polymarket.

Stake/Drake

People like to gamble on the results of random number generators. Usually they don't like to bet on things that are *explicitly* random number generators; usually it is more appealing if things are dressed up a bit. So people will generate randomness with a shuffled deck of cards, to play blackjack or baccarat or poker, or with a pair of dice, to play craps.

Or, at a slightly higher level of abstraction, they will get random outcomes from sports scores or the stock market: The S&P 500 index is not *exactly* a random number generator the way `random.randint` is, but for most people's purposes it might as well be. Professional traders understand this: Liar's poker was once big on Wall Street, and its source of random numbers (dollar-bill serial numbers) is barely dressed up at all; Jane Street and Susquehanna employ people who have apparently put a lot of thought into betting on coin flips. They know that they are betting on probability distributions in their day jobs, too.

With the advent of computers it became a lot easier to generate random numbers, and casinos have a booming business of letting people sit at computers and bet on random number generators. Again, they dress this up a bit, so the computers are called "slot machines" and the numbers they generate look like cherries and bars and whatever.

But if your computer is generating the numbers, they don't have to be *that* random, and you might adjust the distributions to make the game as fun as possible. With slot machines, I gather this means mostly that (1) the house wins in the long run but (2) the player gets some wins and apparent near-wins along the way to keep her hooked.

But of course as computers get better people don't want to schlep to a casino to sit at the casino's computers and pull levers; they want to sit at home and push buttons on their own computers to get random numbers and win or lose money. Or that is the natural conclusion here though I personally don't want that or even entirely understand it. But anyway there are online slot machines.

And with online slot machines, I guess you can set the payoffs however you want? Subject to whatever regulation you're subject to in whatever regulatory haven you've chosen to set up shop? In particular you might want the payoffs to be very *good* (player-friendly) when *Drake is playing and livestreaming his play*, because that will attract lots of other people, because Drake is famous and I guess seeing Drake win at online slots will attract other players? (Why does anyone do anything?) And then worse otherwise.

Bloomberg Businessweek has a story about, uh, maybe that:

Drake's hot streak had been hot, though. He'd won big—1,000 times or more his base bet, a common goal in the crypto gambling community—four times in just one hour playing Easygo-owned slots. That kind of luck is far outside the norm, according to a Bloomberg Businessweek analysis of 500 hours of live slots gameplay by 25 Stake gamblers. And that session wasn't a one-off for Drake. When he played Easygo slots, he won big four times as frequently as the average rate—the equivalent of once every 2,500 spins, compared with every 10,000 spins, according to Businessweek's investigation. Yet on games operated by third parties, his win rate was average. And Drake wasn't the only influencer getting very, very lucky while broadcasting Easygo games on Kick.

Stake is the most popular crypto casino in the world, offering convenient access to slots, roulette, sports betting, poker with live dealers and more. It's almost entirely unregulated, based in Australia and registered in the Dutch Caribbean island of Curaçao. Stake's main site and affiliated domains get at least 127 million visits every month, according to analytics provider Similarweb. The casino estimates it takes 10 billion monthly bets and accounts for about 4% of all Bitcoin transactions annually.

This success has been accelerated by influencers on Kick, which since its debut in December 2022 has helped boost Stake's traffic more than fivefold. ...

The streamers' seemingly infinite balances, splashy jackpots and social media virality have led some viewers to question the legitimacy of their wins. [Stake co-founder Ed] Craven has repeatedly denied that Stake's influencers get more generous odds, stating in one blog post that "despite certain widespread notions of odds being rigged in some people's favors or money not being real, we have no direct control of the odds of any of our games."

Here's the blog post. I mean ... why *wouldn't* you control the odds to make Drake's play look good?

Things happen

Trump's War on Iran Has Traders Staring Down an Energy Crisis . Biggest energy traders use windfall gains to tighten grip on market. AI dispersion trade. Musk's X, xAI to Repay \$17.5 Billion Debt as SpaceX IPO Nears. Trump Administration to Drop Defense of Law Firm Sanctions. Justice Department Seeks to Reverse Course and Defend Law Firm Sanctions. A 'Fight About Vibes' Drove the Pentagon's Breakup with Anthropic. OpenAI makes changes to 'opportunistic and sloppy' Pentagon deal. Elliott Invests \$1 Billion in Pinterest to Fund Share Buybacks. Stablecoin Issuer Tether Uses Deloitte for USAT Reserve Report. Some of the Fiercest Activist Investing Is Coming From a Small Shop in Ohio. Apollo's Rowan Says Epstein ' Wasting My Time ' From the Grave.

If you'd like to get Money Stuff in handy email form, right in your inbox, please subscribe at this link. Or you can subscribe to Money Stuff and other great Bloomberg newsletters here. Thanks!

To contact the author of this story:

Matt Levine at mlevine51@bloomberg.net

To contact the editor responsible for this story:

Michael Newman at mnewman43@bloomberg.net

1. Actually **first** they are kids and don't work for about 20 years, mostly on their parents' dime, but that's a separate issue.
2. Also, importantly, a lot of people **don't** earn much more than they spend during their working years. But we're discussing investment products that necessarily cater to middle-to-high-income people.
3. I realize that the correct term for computer-generated numbers is "pseudo-random," but that doesn't matter much at this level.

© 2026 Bloomberg L.P. All rights reserved. Used with permission.

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

<https://bsky.app/profile/did:plc:gdj5pzurklijmlknynlpaora/post/3mg5q3dqrss2u>



Ann M. Lipton

@annmlipton.bsky.social

guess who

courts.delaware.gov/Opinions/Dow...

In 2020, the Company rebranded as EngageSmart. It went public in 2021 in an IPO priced at \$26 per share. After the IPO, General Atlantic controlled approximately 60% of the Company's voting power. General Atlantic, Summit, and the Company executed a governance agreement that cemented General Atlantic's control (the "Governance Agreement"). The Governance Agreement authorized General Atlantic to (i) designate five of the Company's eight directors, including the Board chair; (ii) designate one member of each Board committee; (iii) remove directors by majority Board vote (!); and (iv) block most major corporate actions through granular pre-approval requirements. The Governance Agreement preserved Summit's right to nominate one director.

4:04 AM · Mar 3, 2026 ⑤ Everybody can reply

2 reposts 3 likes



4



2



3



Write your reply



Ann M. Lipton @annmlipton.bsky.social · 25m

yeah that's not great either

The group also discussed the likelihood of litigation for "a related party [transaction]."¹⁷ They noted that "[s]ill the books and documents that get made become public" and resolved to be conscious of "[w]hat should be talked about / written down, given the complexity of potential transaction."¹⁸

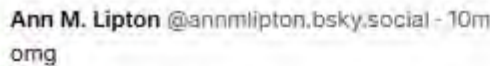


2



2

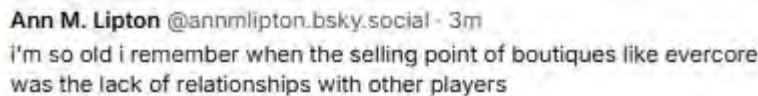
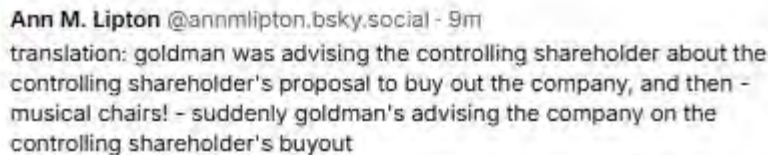




day, a Goldman partner described the potential deal as "a price, we haggle with the committee, likely bump and then do the confirmatory diligence."⁷² The Goldman "ideal" would be to "present a fully baked deal with partner to board."⁷³

The July 19, 2013, *New York Times* editorial started with the line "Having no more news, 'Shadows in the Dark' (Shadows and Dark) decided to send us on our way."

That's not it. The *Shadows in the Dark* could control anyone's access to the *Shadows* newspaper, or it could make it "available" elsewhere, but could take their editorial opinion to the contrary at any and all "Shadows in the Dark" editorial committee meetings. The *Shadows in the Dark* could also choose to "let" their editorial committee will allow them to discuss money spent and to contribute to that money in doing so, or to ignore.¹⁰⁰ It might choose not to meet or to meet so that the committee could discuss the gap and that it is able to do so on the *Shadows in the Dark*.¹⁰¹

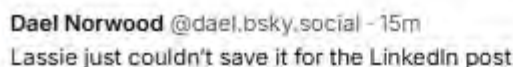


The Committee retained Evercore as its financial advisor. Evercore disclosed receiving \$41 million in fees from General Atlantic over the past five years. Evercore did not disclose its relationships with Summit or Vista. After the Committee hired Evercore, the firm disclosed that it had received \$36 million from Summit over the past five years and \$18.5 million from Vista from January 2020 to October 2023. An

⁷³ *Id.* ¶ 177 (quoting SC 00000107 at 108).

¹¹ *Id.* ¶ 178 (quoting SC-00000107 at 109).

Evercore Senior Managing Director disclosed that he was personally involved in a live engagement currently with Summit with fee tbd.²⁸





same day, General Atlantic asked Goldman “to run take private math for EngageSmart” and scheduled a kickoff call for June 27.¹⁴

During the call, the group discussed two structures. In one, a buyer would acquire control with “GA expect[ing] a big premium.”¹⁵ In the other, General Atlantic would roll over its full stake and return control and would not receive a control premium, but the Company would sell off businesses to generate liquidity.¹⁶ General Atlantic preferred the latter option.

That same day, a Goldman partner described the potential deal timeline: “We propose a deal and a price, we haggle with the committee, likely bump our price then we shake hands and then do the confirmatory diligence.”²⁶ The Goldman partner noted that “[t]he ideal” would be to “present a fully baked deal with price agreed between us and partner to board.”²⁷

Foreign Issuer Insiders Face Tighter Disclosures After SEC Finalizes Rule

"The heads of U.S. companies are required to promptly disclose their stock sales to the public, but the executives of foreign companies have not been required to play by the same rules," said Sen. Chris Van Hollen, D-Maryland.

March 02, 2026 at 04:00 PM By  **Dan Novak**



U.S. Securities and Exchange Commission seal in Washington, D.C. Photo: Diego M. Radzinski/ALM

The U.S. Securities and Exchange Commission on Friday issued a new insider trading rule for foreign companies that brings foreign issuers largely in line with U.S. firms.

The Holding Foreign Issuers Accountable Act, enacted in December, requires executives of foreign companies to disclose electronically to the SEC any trades of their own company's stocks within two business days. Foreign company insiders were previously exempt from disclosures required by U.S. companies under Section 16(a) of the Securities and Exchange Act.

Under the SEC's implementing [regulation](#), the commission clarified that the HFIA Act applies only to company directors and officers and does not apply to 10% owners of a foreign private issuer.

Some commenters wrongly assumed the HFIA Act removed the Section 16(a) exemption for 10% holders, the SEC stated.

“We do not view the section title of the HFIA Act (“Disclosures by Directors, Officers, and Principal Stockholders”) as dispositive of Congress’s intent to apply the statutory amendments to 10% holders,” the SEC added.

The rule goes into effect March 18.

The HFIA Act also enables the SEC to exempt executives of foreign private issuers incorporated in jurisdictions subject to similar requirements as Section 16(a). SEC Chair Paul Atkins, in a statement announcing the rule, left open the possibility for future exemptions.

“When enacting the HFIA Act, Congress also recognized the possibility that some foreign laws may already impose substantially similar requirements on executives and gave the commission authority to exempt persons, securities, or transactions from the HFIA Act’s requirements,” he said. “The commission staff is actively evaluating whether it will recommend that the commission exercise this exemptive authority.”

While the SEC’s rule did not contain any exemptions, “we are increasingly hopeful that exemptions for certain jurisdictions could be adopted in the near term,” Latham & Watkins stated in a client alert.

Previously, executives of foreign companies were not required to make timely electronic disclosures of stock trades and only made paper filings.

The delay in the system allowed foreign executives to keep trades private for a longer time and led to insider trading at the expense of American investors, Sens. Chris Van Hollen, D-Maryland, and John Kennedy, R-Louisiana, wrote in a 2023 Wall Street Journal column. The two senators sponsored the HFIA Act.

Russian and Chinese companies have been able to avoid billions in losses by evading disclosure requirements required of American companies, the senators stated.

“The heads of U.S. companies are required to promptly disclose their stock sales to the public, but the executives of foreign companies have not been required to play by the same rules,” Van Hollen said in a statement to the National Law Journal following the act’s passage. “We’re on our way toward closing that loophole and ensuring all corporate insiders are held to the same standard—to prevent foreign executives from insider trading at the expense of American investors.”

Securities

Opinion

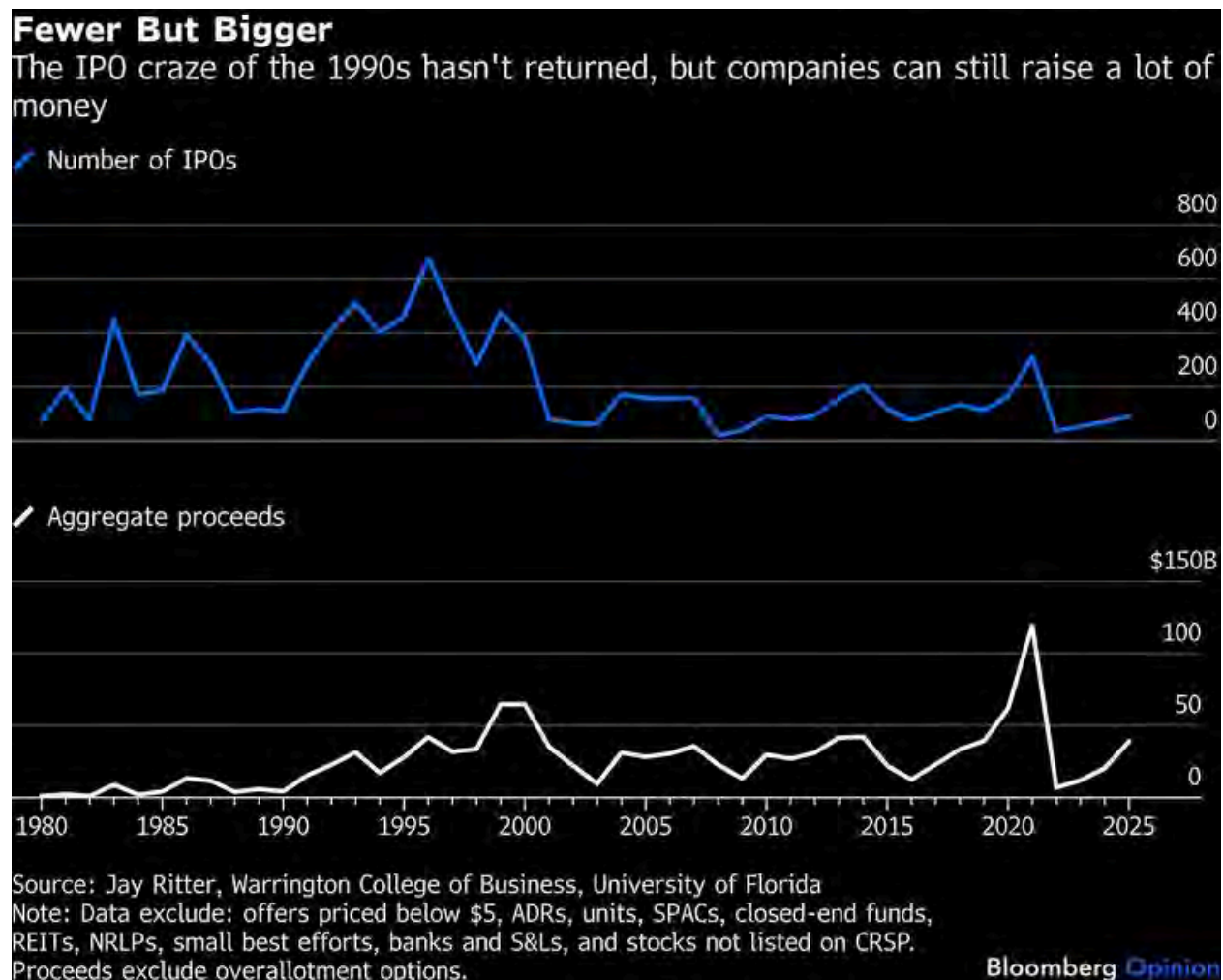
Markets Have Evolved. So Should SEC Disclosure Rules: Editorial

March 3, 2026, 3:00 AM PST

Decades of “regulatory creep” and onerous disclosure requirements have discouraged companies from going public, say leaders of the Securities and Exchange Commission. To revitalize American markets, they plan to pare back those demands, especially for smaller firms. “We need a reset,” Chairman Paul Atkins recently declared.

Although this narrative has a certain appeal, the SEC risks misdiagnosing the problem it’s trying to solve — and hence overlooking more pressing concerns.

There’s no question that US markets have changed dramatically since Atkins first served on the commission’s staff in the 1990s. Total equity value has more than doubled as a percentage of gross domestic product, but there are some 40% fewer stocks. Today’s initial public offering candidates are often larger and more mature, with some already valued at tens of billions of dollars — or, in the case of Elon Musk’s conglomerate, more than \$1 trillion. Increasingly, the market is made up of a smaller number of bigger companies.



It's tempting to blame regulation for this dynamic. Expanding disclosures on topics as diverse as conflict minerals, cybersecurity and executive compensation have caused the average length of annual 10-K filings to nearly triple since 1996, making them harder to read and costlier to prepare. That in turn has conferred an advantage on bigger companies with more compliance staff. As Atkins said in a speech in December, "the path to public ownership has become narrower, costlier and overly burdened with rules."

His proposed solution: Limit disclosures to those deemed financially material and let more firms qualify for the tailored rules reserved for the smallest ones.

These are reasonable goals, but they may not amount to much. A 2021 study estimated that all of the regulatory costs imposed since 2000 likely account for less than 8% of the decline in IPOs. Corporate filings have ballooned mostly because of rules related to fair-value accounting, internal controls and risk factors — topics already deemed financially material. Moreover, the SEC has already reduced the burdens for so-called smaller reporting companies and emerging growth companies.

By all means, the commission should look to further streamline things (as it has done repeatedly over the past 20 years). Companies can abide by federal securities laws without reporting their insider-trading guidelines annually, for instance, and mine-safety policies probably don't need quarterly updates.

Yet markets have evolved for complex reasons. Most pertinently, the rise of private equity and credit funds — combined with a decade of zero-percent interest rates — gave US companies access to easy financing with little public scrutiny. More than \$4 trillion has poured into such funds in recent years. As they increasingly seek capital from retail investors and retirement savers, instead of just institutions, the SEC needs to devote more of its attention and resources to overseeing them.



To begin, the commission should require better disclosures about liquidity and valuations at registered funds, such as ETFs, business-development companies and interval funds that already own private assets. Its examiners need to clamp down on bad actors, such as funds that artificially inflate the value of these rarely traded assets to increase fees.

Another priority should be reforming disclosure rules for unregistered private funds or securities that market themselves to individuals. Even institutional investors in such assets have long had to haggle for information, with the largest and most sophisticated often receiving favorable terms and additional data. If policymakers expand direct retail access, the SEC should mandate standardized disclosures to level the playing field. It should also revisit its previous — and failed — effort to require such funds to detail quarterly expenses and fees as well as conflicts of interest.

Atkins says that capital markets are “expressions of our national character” — in particular, the American tendency to “innovate endlessly and restlessly.” He’s right. The SEC needs to keep up.

More From Bloomberg Opinion:

Crypto’s Future Will Be Sabotaged by Feeble Oversight: Editorial

Marc Rowan Wants to School You in Private Credit: Paul J. Davies

AI Can Be Transformational and Still Be a Bubble: Editorial

Want more Bloomberg Opinion? [OPIN <GO>](#). Web readers, [click here](#) . Or you can subscribe to our daily newsletter.

—Editors: Christine Harper (charper@bloomberg.net), Timothy Lavin (tlavin1@bloomberg.net).

To contact the senior editor responsible for Bloomberg Opinion’s editorials: Timothy L. O’Brien at tlobrien@bloomberg.net

© 2026 Bloomberg L.P. All rights reserved. Used with permission.

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Securities

BlackRock Says Index Funds Alone Aren't Enough for US Retirees

March 3, 2026, 3:00 AM PST

BlackRock Inc. called for more active management and the inclusion of private assets in 401(k)s, contending index investing alone is no longer sufficient to manage risk and fund retirements that can now stretch for decades.

"There needs to be an evolution away from this being indexed only," **Nick Nefouse**, global head of retirement solutions at the firm, said in a phone interview, adding that increased volatility and concentration in stock market indexes necessitates more active management. "The markets are evolving to a point where there needs to be more of an oversight."

The world's largest asset manager published research on Tuesday arguing that a defined-contribution plan such as a 401(k) should no longer be considered a "nest egg" but rather a "paycheck for life" that potentially includes a guaranteed income. The firm is looking to include actively managed and private assets alongside index funds.

Alternative asset managers such as Apollo Global Management Inc. and Blackstone Inc. have been lobbying for the inclusion of private assets in defined-contribution plans. Their efforts got a boost last year, when President Donald Trump issued an executive order aimed at paving the way for more nontraditional investments in 401(k) plans. A formal proposal is expected soon.

Increased Scrutiny

BlackRock has been a leader in indexing since it acquired Barclays Global Investors in 2009. Now the asset manager is pivoting to compete aggressively in private markets, as well, having spent more than \$25 billion acquiring private-markets firms — including \$12 billion last year on credit shop HPS Investment Partners.

The firm plans to debut target-date retirement funds this year that include alternative assets. Private credit is a likely place to start because private equity deals are less liquid and there have been fewer of those opportunities in recent years, according to Nefouse.

Private debt writedowns and plunging values for some retail private credit funds — including BlackRock's — have led to much greater scrutiny of placing the assets in individual investors' portfolios.

Read More: BlackRock Private Debt Fund Slumps After Slashing Dividend

BlackRock would add private debt slowly to actively managed target-date funds that hold a variety of stocks, bonds and other assets, according to Nefouse.

"We're talking about a few percentage points in the total portfolio, and then we would scale that up over time," he said. "It's not about us going from zero to 20% or even zero to 10%."

To contact the reporters on this story:

Silla Brush in New York at sbrush@bloomberg.net;

Suzanne Woolley in New York at swoolley2@bloomberg.net

To contact the editors responsible for this story:

Jeremy Hill at jhill273@bloomberg.net

Erin Fuchs

© 2026 Bloomberg L.P. All rights reserved. Used with permission.

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

This copy is for your personal, non-commercial use only. Distribution and use of this material are governed by our Subscriber Agreement and by copyright law. For non-personal use or to order multiple copies, please contact Dow Jones Reprints at 1-800-843-0008 or visit www.djreprints.com.

<https://www.wsj.com/business/jack-dorseys-latest-far-out-bet-an-ai-future-with-fewer-employees-25655cda>

BUSINESS

Jack Dorsey Blamed AI for Block's Massive Layoffs. Skeptics Aren't Buying It.

Block—owner of payment apps, bitcoin and music streaming—grew its workforce to nearly 13,000 during the pandemic

By [Angel Au-Yeung](#) [Follow](#)

March 2, 2026 9:00 pm ET



Block founder Jack Dorsey in 2021 MARCO BELLO/AFP/GETTY

Quick Summary

- Block founder Jack Dorsey announced plans to slash 40% of employees, over 4,000 people, citing improved AI models.

[View more](#)

In September, payments firm [Block](#) Inc. XYZ **-2.58%** ▼ gathered 8,000 of its employees from around the globe to California for an extravaganza celebrating the company's 16th birthday.

The three-day affair took place at the Oakland Coliseum and Arena and had the air of a music festival rather than a corporate event, with a nighttime DJ set by Anderson .Paak.

Among the highlights: Block founder Jack Dorsey, clad in a black T-shirt with a chain necklace, held a chat on stage with hip-hop superstar Jay-Z, a Block board member. The event cost the company over \$60 million.

Six months later, Dorsey announced plans to [slash 40% of the workforce](#) at the company, which owns Square and Cash App. More than 4,000 people were soon notified that they would be let go.

Dorsey, 49, cited rapidly improving artificial-intelligence models as the primary reason, fueling anxieties the technology was on the verge of wiping out white-collar jobs and devastating the economy. Just days earlier, a report that imagined such a future had [sparked a market rout](#).

“Within the next year, I believe the majority of companies will reach the same conclusion and make similar structural changes,” Dorsey said on a call with analysts as Block’s stock soared.

Not everyone is buying it. Rather than leading American corporations into a brave new future, some Wall Street analysts say, he is capitalizing on a chance to slash costs at a company with excessive staffing.

What began as a company focused on card-payment systems expanded into buy-now, pay-later loans, Jay-Z’s music-streaming platform and bitcoin investments. The company has improved the profitability of its core businesses, but some of its ventures are weighing on its balance sheet. Net income in 2025 fell by more than half from the prior year as a result of a one-time tax gain in 2024.



Block bought an 86% stake in Jay-Z's Tidal music-streaming service in 2021. DAN MULLAN/GETTY

“The vast majority of these cuts were probably not due to AI,” said Dan Dolev of Mizuho Americas, noting the “significant amount of bloating” in recent years.

“This isn’t an AI story. It’s a workforce correction wearing an AI costume,” wrote Jason Karsh, a former Block employee, on X.

Inside Block, employees had already grown accustomed to layoffs—just not on this scale.

Block had gone on a hiring spree during the pandemic, when Dorsey—who was known for a hands-off leadership style—[became even more absent](#).

Dorsey’s lieutenants often clashed in his absence, leading to teams with duplicated roles and resources. The company had around 4,000 employees at the end of 2019. By the end of 2023, head count had mushroomed to nearly 13,000.

A series of missteps—including a global outage at Square—prompted Dorsey to take on a more active role at the company. He announced a large round of layoffs in late 2023 and then again in early 2025. When Dorsey announced the 40% reduction last week, Block still had around 10,000 employees.

Dorsey has maintained that the latest cuts weren't primarily motivated by cost savings. He acknowledged in a post on X that he had “incorrectly” built two separate business structures, but that Block's hiring partly reflected the increased complexity of the company's operations.

Juggling roles

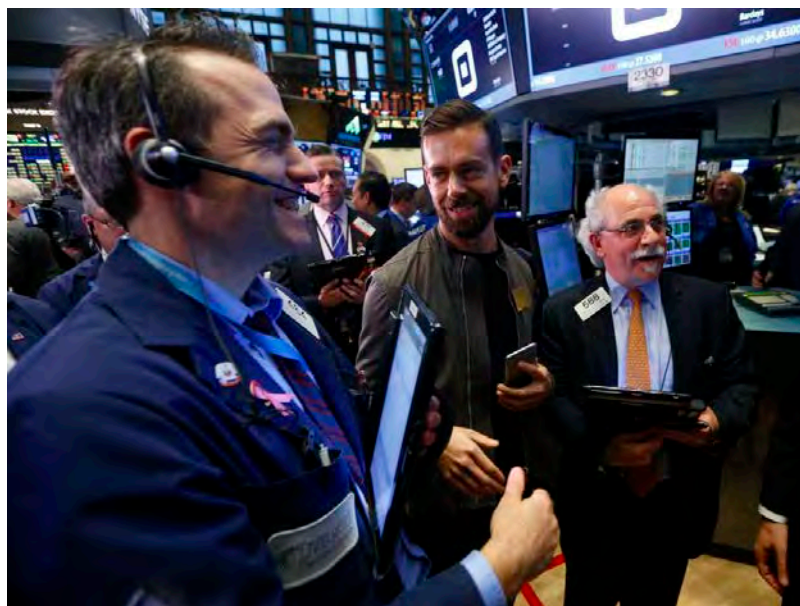
Block is Dorsey's second stint atop a tech company. The young programmer, sporting dreadlocks and a nose ring at the time, was one of Twitter's co-founders and served as its chief executive officer until 2008, when he was [pushed out](#) amid concerns that he was distracted by his hobbies. In interviews, Dorsey has said he was ousted because he “deferred too much” to other executives.

Soon after, in 2009, he co-founded Square, the company that would go on to become Block. The idea came about after another co-founder, a coder and glassblowing artist named Jim McKelvey, couldn't sell one of his sculptural glass faucets because he couldn't accept credit cards.

To solve the problem, they created a square-shaped device that could plug into a smartphone's headphone jack and read credit cards. The company gave away the hardware and software for free and the system took off, particularly among small businesses.

When employees came up with the idea for Cash App in late 2012, executives wanted to kill the project in part because it felt too similar to [PayPal's](#) Venmo. Dorsey has said he kept it alive because he trusted the team leading it.

In 2015, Square prepared to go public. That same year, Dorsey took back the job as CEO of Twitter, which was based a block away. He juggled roles at both companies and started delegating more work at Square to his deputies.



Dorsey waiting for Square stock to open on the New York Stock Exchange for its first day of public trading in 2015. ANDREW GOMBERT/EPA

Dorsey's personal life, meanwhile, started getting more attention. One year, he recounted the 10-day silent meditation retreat he went on in Myanmar for his birthday.

In 2019, his diet made headlines when he said on a podcast that he ate only one meal a day, to improve his focus. Later in the year, he spent nearly a month in Africa meeting with crypto entrepreneurs and declared his intention to move to the continent for a few months.

The Covid-19 pandemic brought those plans to a halt. Still, investors grew more concerned with his dual roles. Elliott Investment Management, the activist hedge-fund firm, launched a campaign in early 2020 to oust Dorsey as CEO of Twitter.

The pandemic crumbled Square's revenue as small businesses suffered. But Cash App exploded as users deposited their stimulus checks and unemployment benefits into their accounts. The app makes money in a variety of ways, including on instant transfers to bank accounts and short-term loans.

Square's stock shot up. Dorsey and other executives started hunting for acquisitions.

In March 2021, the company said it was buying an 86% stake in Tidal, a music-streaming service started by Jay-Z that was operating at a loss at the time. A pension-fund shareholder sued, alleging the company had breached its fiduciary duty. A judge dismissed the lawsuit but called the deal “a terrible business decision.”

In August 2021, the company announced a \$29 billion all-stock deal for Afterpay, a buy-now, pay-later firm. A few months later, the parent company was rebranded as Block.

Dorsey steps in

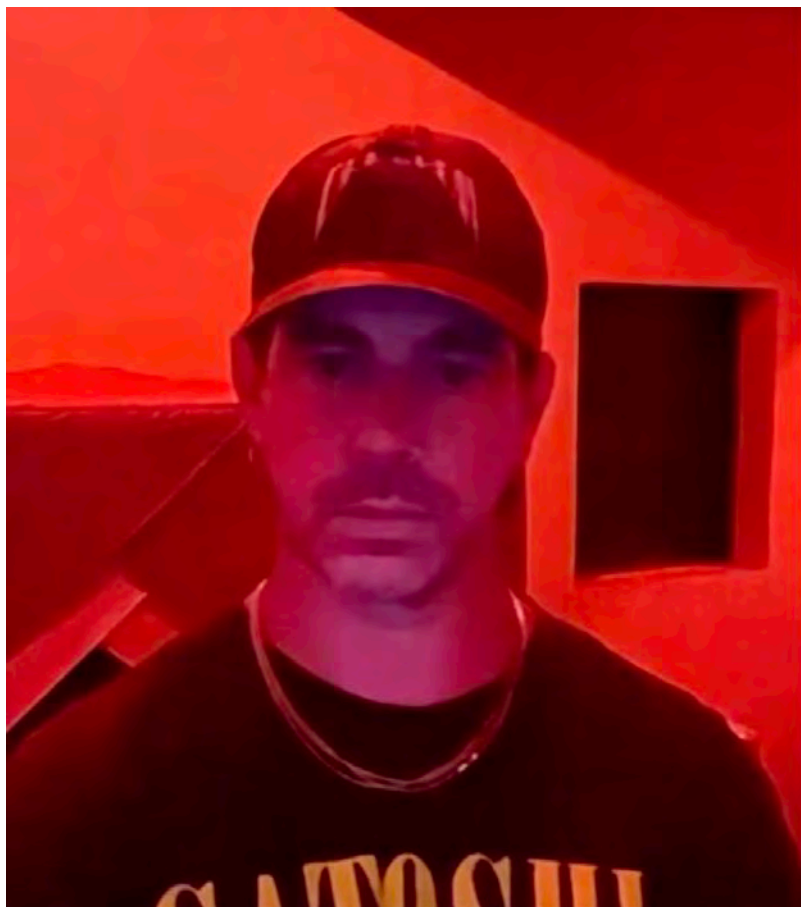
Dorsey left Twitter's leadership shortly before it was acquired in 2022 by billionaire Elon Musk. Soon after the takeover, Musk [slashed thousands](#) of Twitter's workers. The service was renamed X, and it had about 1,500 employees in 2023, down from around 8,000.

Dorsey stepped back in as Square's full-time CEO after a [global service outage](#) in September 2023 left business owners unable to access their accounts for two days. Previously, Dorsey had given himself the title of “Block Head.”

Rolling layoffs began soon after. Dorsey doubled down on his interest in bitcoin and announced Bitkey, a hardware bitcoin wallet device. A unit to make chips and machines for bitcoin mining soon followed.

Today, both of Block's major business units are facing pressure. Square is competing with payment platforms including Shopify and Toast, while Cash App competes with players including Apple's wallet and PayPal's Venmo.

Dorsey's personal peculiarities also continue to draw attention. At a tech summit in November, Dorsey videoconferenced onto the stage, bathed in red light, during a chat with the co-founder of an AI voice generator. “It's sunset here, and I only have red lights in my house,” he said.



Dorsey on-screen at a tech summit in November.

In the past year, Dorsey has pushed his employees to use generative AI tools, according to people familiar with the matter. Employees are also expected to send Dorsey weekly updates, which he then summarizes with AI into general highlights and themes, the people said.

The depth of the layoffs announced last week were shocking to many employees. Others found solace in getting closure.

“For the past six months, the vibe at Block has been heavy with anxiety, and layoffs have been the hottest topic,” Cash App engineer Zane Wang wrote in a LinkedIn post shortly after he was laid off. “Honestly, getting laid off feels more like a relief.”

That afternoon, Dorsey hosted a companywide call addressing the move. On the call, he wore a hat with a word imprinted on its front: Love.

The Latest on Crypto

Coverage of bitcoin and other cryptocurrencies, selected by the editors

Securities

Manage Newsletters

SPAC Ex-CEO Fails to Shake SEC Suit Over Trump Social Media Firm

March 3, 2026, 10:33 AM PST

Summary by Bloomberg AI

AI Generated



- A jury could conclude that investors would have been influenced by knowledge of plans by Patrick Orlando to merge his special purpose acquisition company with Trump Media & Technology Group Corp.
- The SEC alleges that Orlando undertook a scheme to use Digital World to merge with a selected target while affirmatively telling investors that no such merger plan existed.
- The SEC plausibly alleged that Orlando made misleading statements about Digital World's contacts with the potential merger target, and adequately alleged that Orlando made a material omission by failing to mention a break-up fee.

The former chief executive of the blank-check firm that helped bring President Donald Trump's social media company public lost his bid to toss an SEC enforcement action alleging he misled investors.

A jury could conclude that investors would have been influenced by knowledge of plans by Patrick Orlando, who led Digital World Acquisition Corp., to merge his special purpose acquisition company with Trump Media & Technology Group Corp., Judge Christopher R. Cooper in the US District Court for the District of Columbia said in a Monday ruling.

Patrick Orlando told investors his SPAC had no specific target companies in mind when he had already engaged in talks with representatives of Trump Media, which operates the Truth Social platform, according to the Securities and Exchange Commission's 2024 complaint.

"The Commission's complaint paints a picture not of quotidian preliminary merger discussions, but of a concerted scheme by Orlando to use Digital World to merge with a selected target, implemented over the course of months prior to the IPO and consummated soon after," Cooper said in the order. "And the SEC alleges that Orlando undertook that scheme while affirmatively telling investors that no such merger plan existed."

SPACs raise money from investors with the goal of buying existing private firms, but they typically can't hold actual merger talks until their own IPOs are finalized.

Trump Media allegedly signed a letter of intent for the merger with Orlando and Digital World, raising concerns from another SPAC director that Orlando was structuring the deal to maximize his own profit.

Orlando allegedly told an investment bank representative that he wanted to get Trump a Digital World tombstone, or deal-making keepsake, "the size of a golf cart." The merger agreement between Trump Media and Digital World was officially announced in October 2021.

The SEC plausibly alleged that Orlando made misleading statements about Digital World's contacts with the potential merger target, Cooper said. The agency also adequately alleged that Orlando made a material omission by failing to mention a break-up fee that he was able to sidestep by pushing the Digital World-Trump Media deal, according to the order.

Digital World settled with the SEC in 2023, the same year Orlando left his leadership roles, paying \$18 million to resolve similar allegations that the company misled investors.

The SEC last year said it had reached an "agreement in principle" with Orlando, but agency staff later told the defendant they no longer believed they could obtain commissioners' approval for the deal, according to a subsequent filing.

Trump Media is separately squaring off with Orlando in Delaware's top court over shares he was awarded.

Vedder Price PC and Dechert LLP represent Orlando and declined to comment. An SEC spokesperson declined to comment.

The case is SEC v. Orlando , D.D.C., No. 1:24-cv-02097, 3/2/26 .

To contact the reporter on this story: Ben Miller in New York at bmiller2@bloombergindustry.com

To contact the editor responsible for this story: Michael Smallberg at msmallberg@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Meta Investor Suit Presses Ahead After High Court Pass

By **Jessica Corso**

Law360 (March 2, 2026, 7:04 PM EST) -- Facebook parent company Meta can't shake an investor lawsuit over its actions in the wake of the Cambridge Analytica scandal, a California federal judge ruled after trimming some allegations from the case that at one point made its way up to the U.S. Supreme Court.

U.S. District Judge Edward Davila said Friday that Facebook investors could press ahead with claims that the company falsely assured platform users that their data was protected from third parties ahead of the 2015 reporting that broke the scandal, in which the British consulting firm was found to have used the data to support Republican political campaigns.

The judge said he found equally compelling both investors' arguments that Facebook deceived the public in order to shore up trust among users and Facebook's arguments that it did not think to mention the misuse of the data because it had already been reported on.

Facebook didn't disclose that information, Judge Davila said, news outlets did. And the company merely said at the time that it was investigating the alleged data misuse, he said.

"[T]he Court echoes the Ninth Circuit in finding that reasonable investors would not have known that Cambridge Analytica had improperly accessed Facebook users' data such that users did not have control over their personal information on the platform," the judge added.

The judge, however, dismissed claims that the company continued to defraud its investors between the time of the initial reporting and 2018 follow-up reporting on the political consulting firm's continued use of the data.

Judge Davila threw out those continued misuse claims in 2020 and 2021 and said that lead investors had failed to reassert them before the Ninth Circuit on appeal.

"Plaintiffs are trying to revive a theory that was dismissed with prejudice, and which they forfeited on appeal," he said.

The case, filed in 2018, was first revived by the Ninth Circuit and then later made its way up to the Supreme Court. The justices heard oral argument in November 2024, before dismissing the case without a ruling **later that month**, saying a review had been improvidently granted.

The justices had been asked to determine whether corporations were required to report past events as risk factors in financial reports. The investors argued that was a misstatement of their case because the data misuse continued to be a problem following the initial 2015 report.

They say the company's stock price dropped twice following 2018 reports of further misuse of data and that the company shed \$100 billion in market capitalization within a week of the 2018 news.

Following the high court's dismissal, the case was sent back to Judge Davila, and investors filed another amended complaint last year.

Neither counsel for the investors nor for Facebook immediately responded to a request for comment.

The proposed class is represented by Jason Davis and Kenneth Black of Robbins Geller Rudman & Dowd LLP and Salvatore Graziano and Jeremy Robinson of Bernstein Litowitz Berger & Grossmann LLP.

Facebook is represented by Brian Lutz, Martie Kutscher, Michael Kahn and Joshua Lipshutz of Gibson Dunn & Crutcher LLP.

The case is In re Facebook Inc. Securities Litigation, case number 5:18-cv-01725, in the U.S. District Court for the Northern District of California.

--Editing by Michael Watanabe.

Correction: A previous version of this story misspelled an attorney's name. The error has been corrected.

All Content © 2003-2026, Portfolio Media, Inc.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Norfolk Investors Seek Class Cert. In Rail Safety Claims Suit

By **Katryna Perera**

Law360 (March 2, 2026, 5:34 PM EST) -- Investors suing Norfolk Southern and its top brass have asked a Georgia federal judge for class certification in a case alleging the railroad company made false claims about its safety culture and practices and deceived investors up until the fiery crash of one of the company's trains along the Ohio-Pennsylvania border in 2023.

The investors filed a **motion** on Friday asking the court to certify a class of individuals and entities that purchased or acquired Norfolk Southern common stock from Oct. 28, 2020, through March 3, 2023.

The investors argue that the proposed class meets all the requirements. It is numerous, with more than 227 million shares of common stock outstanding during the class period; class members suffered harm from the defendants' alleged misconduct; there are common questions of law and fact; and class counsel from Kessler Topaz Meltzer & Check LLP and Robbins Geller Rudman & Dowd LLP are adequate representatives with "extensive experience litigating federal securities class actions," the motion states.

The class certification bid comes a year after the investors' complaint **survived a motion to dismiss** from Norfolk Southern.

In March 2025, U.S. District Judge Steven D. Grimberg ruled the investors' claims were specific enough to be material for investors and that Norfolk Southern executives' promises about safety — especially when contrasted with its adoption of "precision scheduled railroading," job and training cuts and reports of increased incidents and accidents even before the fiery derailment at the Pennsylvania border — were enough to sustain claims that the company knew it was deceiving people.

Originally filed **in 2023** by a group of Bucks County, Pennsylvania, retirees in Ohio, the case was **moved to Georgia** and is now led by pension funds AkademikerPension and Ironworkers Local 40, 361 & 417 Union Annuity, Pension, and Topping Out Funds.

The suit claims that Norfolk Southern and several of its current and former executives misled investors about the company's safety, highlighting more than 35 alleged misstatements about safety standards even as Norfolk Southern allegedly slashed staffing, training and inspections, and made trains longer and more dangerous.

Norfolk Southern stock prices, allegedly inflated by these promises of safety without reducing profitability, took a dive when a railcar bearing failed, and several chemical-laden cars derailed the night of Feb. 3, 2023, in a village near the Ohio-Pennsylvania border, according to the suit.

A similar class action alleging that the company botched disclosures about how an efficiency plan might cause derailments was **tossed** by a New York federal judge last year and then appealed to the Second Circuit.

A three-judge panel for the appeals court **affirmed the dismissal** on Friday, finding the company's statements about safety were inactionable puffery.

Representatives for the parties did not immediately respond to requests for comment on Monday.

The investors are represented by Nathan A. Hasiuk, Daniel A. Friedman, Vanessa M. Milan and Alec S. Garber of Kessler Topaz Meltzer & Check LLP, Jason C. Davis, Ashley M. Price, Peter Ko, Mark Conover, Jack Abbey Gephart and Evelyn Sanchez Gonazalez of Robbins Geller Rudman & Dowd LLP, Michael A. Caplan, Cameron B. Roberts and Annie Boring of Caplan Cobb LLC, John C. Herman of Herman Jones LLP, and Joseph F. Murray of Murray Murphy Moul + Basil LLP.

Norfolk Southern and the other defendants are represented by Hilary Houston Adams of Hall Bloch Garland & Meyer LLP, and Michael G. Bongiorno, Tamar Kaplan-Marans, Ripley B. Shiarella and Denise Tsai of Wilmer Cutler Pickering Hale and Dorr LLP.

The case is Bucks County Employees Retirement System et al. v. Norfolk Southern Corporation et al., case number 1:23-cv-04175, in the U.S. District Court for the Northern District of Georgia.

--Additional reporting by Matthew Santoni. Editing by Vaqas Asghar.

All Content © 2003-2026, Portfolio Media, Inc.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

11th Circ. NextEra Ruling Broadens Loss Causation Standard

By **Ian Ross and Ava Gruener** (March 3, 2026, 10:18 AM EST)

On Nov. 26, the U.S. Court of Appeals for the Eleventh Circuit **reversed** U.S. District Judge Aileen Cannon's dismissal in *Jastram v. NextEra Energy Inc.*, a decision that appears to significantly broaden the circuit's loss causation standard at the motion-to-dismiss stage.

The case arises from allegations that NextEra Energy and its subsidiary, Florida Power and Light Co., made misleading statements denying its involvement in, and legal exposure to, a "Florida election interference scheme."

Salacious details abound, with the plaintiffs alleging a scheme involving the covert funding of "ghost candidates," attempted bribery of local officials, off-the-books payments routed through shell nonprofits, the hiring of private investigators to surveil journalists, and secret payments for securing "executive control" over ostensibly independent news outlets in Jacksonville, Florida.[1]

Unequivocally and emphatically, NextEra and FPL denied all allegations over the course of 2021 and 2022. Executives assured investors there was "absolutely no evidence" of any wrongdoing.[2]

In January 2023, however, NextEra filed two Form 8-Ks that announced the imposition of "material fines" and "material adverse impact on the reputation" of NextEra and FPL given the potential investigations, referencing allegations of election misconduct and a Federal Election Commission complaint. Following those disclosures, NextEra's stock decreased nearly 9%, and a securities class action followed.

The U.S. District Court for the Southern District of Florida, applying the Eleventh Circuit's loss causation standard from its 2013 decision in *Meyer v. Greene*, **found** that the plaintiffs had "failed to identify a corrective disclosure that reveals a truth that was previously concealed or obscured by" the alleged fraud.

In *Meyer*, the Eleventh Circuit held that neither an analyst's synthesis of public information nor the disclosure of a U.S. Securities and Exchange Commission investigation qualified as a corrective disclosure because it did not state the "falsity of [the] company's prior representations." [3]

The Eleventh Circuit applied *Meyer* in 2023 in *MacPhee v. MiMedx Group Inc.*, rejecting the plaintiffs' attempt to demonstrate loss causation through SEC whistleblower and investigation disclosures because those disclosures simply "portend[ed] an added risk of future corrective action" rather than revealed any "pertinent truth." [4]

Based on this precedent, the Southern District of Florida found that none of the January 2023 disclosures could qualify as a corrective disclosure because none purported to correct the prior alleged misstatements or suggest that the prior statements were false or fraudulent.

The Eleventh Circuit reversed, holding that the district court had imposed too narrow an evaluation of the January 2023 disclosures.



Ian Ross



Ava Gruener

The "proper inquiry," it held, is "whether enough truth has saturated the market to make investors second-guess the earlier fraud." [5] Notably, the court did not inquire whether the company issued a stand-alone confession or fact-for-fact retraction of its prior statements. This emphasis on economic reality over semantic labeling signaled a shift that, in application, proved decisive.

Employing its new standard, the Eleventh Circuit pointed to three company statements that, when viewed collectively, amounted to a corrective disclosure.

First, NextEra filed an unscheduled Form 8-K disclosing material litigation and reputational risks related to election law violations. This was certainly not an admission. But the court described it as "a notably different tune" than previous categorical denials.

Second, on the same day, NextEra disclosed its abrupt "separation" from FPL CEO Eric Silagy, the alleged architect of the misconduct. [6] While the company claimed it was unrelated, the court pointed to investment analyst commentary that "investors weren't buying it." [7]

Finally, days later, media reports revealed Silagy's severance agreement included a clawback provision triggered by a felony conviction or admission. NextEra allegedly acknowledged that this provision was not "customary." [8]

Critically, the Eleventh Circuit rejected the district court's insistence on uncovering a fact that refutes "the specific misrepresentations alleged" [9] and previous district court implementations that required a disclosure to be an "essential link" in the loss causation chain. [10] Instead, it held that courts must assess the cumulative market impact of related disclosures.

As the court put it, "investors do not need handholding" to infer that a sudden risk disclosure, unexpected ouster and unique severance clawback provision undermine prior assurances of innocence. [11]

The Eleventh Circuit's decision reflects a recalibration of its precedent, focusing less on the literal causal link between an alleged misstatement and a corrective disclosure, and instead undertaking a market-based, probabilistic inquiry in its "enough truth to saturate the market" test. Notably, in its decision, the court considered the plaintiffs' assertion that "an abundance of statements by financial analysts" linked NextEra's January disclosures to the political scandal. [12]

This inquiry, at minimum, may allow plaintiffs to attempt to more creatively try to plead loss causation by alleging that a variety of reports and disclosures may signal a "truth" about allegedly fraudulent or misleading statements, even where there is no connection on the face of the disclosures.

In January, NextEra **sought** an en banc hearing, arguing that the decision "dramatically broaden[s]" the court's loss causation standard. The petition argues that, under this new standard, "[l]osses caused solely by market speculation — untethered to any allegedly misrepresented facts" may be sufficient to sustain a securities fraud complaint. [13]

It warns that the Eleventh Circuit's decision erased the line that prior circuit precedent "drew between revelation of the truth and speculation," setting a lower bar than loss causation standards in other circuits that more clearly reject disclosures that only allow speculation or conjecture regarding the falsity of challenged statements. NextEra's petition is pending. [14]

In the meantime, the Jastram decision may create new challenges for defendants seeking dismissal from securities fraud class actions. Although the Jastram decision emphasizes that materiality and the Private Securities Litigation Reform Act's particularity standard still set a high pleading bar, its reset of the loss causation standard — where the court remarks that "markets operate on probabilities, not certainties" — strikes a different chord from its prior precedent.

Plaintiffs class action attorneys may see Jastram as opening the door to new lawsuits predicated on more tenuous connections between disclosures and alleged misstatements, where they are required to show only that it is probable that a disclosure reflects doubt about the truth of earlier statements. The impact of the ruling remains to be seen, but it would not be surprising to see an uptick in new

securities filings in the Eleventh Circuit.

Ian Ross is a partner and co-leader of the consumer class actions practice at Sidley Austin LLP.

Ava Gruener is an associate at the firm.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

[1] [Jastram v. NextEra Energy Inc. \(Jastram II\)](#) , 161 F.4th 693, 700-705 (11th Cir. 2025).

[2] [Jastram v. NextEra Energy, Inc. \(Jastram I\)](#) , No. 23-80833-CIV, 2024 WL 6914830, at *2 (S.D. Fla. Sep.27, 2024).

[3] [Meyer v. Greene](#) , 710 F.3d 1189, 1199 (11th Cir. 2013).

[4] [MacPhee v. MiMedx Grp, Inc.](#) , 73 F.4th 1220, 1247 (11th Cir. 2023).

[5] Jastram II, 161 F.4th at 709.

[6] Jastram II, 161 F.4th at 711.

[7] Jastram II, 161 F.4th at 712.

[8] Id. at 712.

[9] Jastram I, 2024 WL 6914830 at *8.

[10] McDowell v. Bracken, 317 F.Supp. 3d 1162, 1181 (S.D. Fla. 2018) (granting a motion to dismiss because "the reelection of directors was not an essential link to the supposed losses that Plaintiff complains of").

[11] Jastram II, at 709.

[12] Id. at 712-713.

[13] Appellee's Pet. For Reh'g at 1. Jastram v. NextEra Energy, Inc., 161 F.4th 693 (11th Cir. 2025).

[14] Id.

All Content © 2003-2026, Portfolio Media, Inc.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
 Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

5th Circ. Presses McDermott Shareholders On Direct Claim

By **Spencer Brewer**

Law360 (March 2, 2026, 9:34 PM EST) -- A Fifth Circuit panel wanted to know why investors should get another shot at a direct class action alleging that McDermott International Inc. made misrepresentations about a \$6 billion merger, asking Monday if the case before the court was "analogous" to a case alleging the company overpaid for the merger.

The investors claim McDermott **deprived them of their federal right** to a fully informed vote on the merger between McDermott and Chicago Bridge & Iron NV that contributed to McDermott's bankruptcy, but U.S. Circuit Judge Irma Carrillo Ramirez asked if their suit was "analogous" to one alleging that McDermott overpaid in its acquisition of CB&I. Overpayment claims are derivative, meaning that the shareholders would lose the ability to bring direct class action claims against the company.

"Don't we end up at the same place?" Judge Ramirez asked. "Either there would not have been a merger, or McDermott wouldn't have paid as much."

The investors' attorney, John Rizio-Hamilton of Bernstein Litowitz Berger & Grossmann LLP, told the court that "we don't end up in the same place at all" as a case alleging that McDermott overpaid for the merger.

The investors did not come to the court asking for damages equivalent to the entire amount of market cap McDermott lost as subsequent information about the transaction became public, Rizio-Hamilton said.

"If we were seeking overpayment damages, I promise you, they would be much, much larger than the damages we're seeking on these four corrective disclosure days," he said. "The four days represent just a handful of days when McDermott's stock was in free fall."

McDermott merged with CB&I in 2018. The investors allege that McDermott overstated the amount of due diligence it had done on CB&I's four largest construction projects, which CB&I had internally forecast would generate at least \$1 billion in additional, undisclosed costs, according to briefing from the parties.

Just a few months after the merger wrapped up, McDermott **had to declare bankruptcy** in no small part due to those same construction projects, the investors alleged.

The lower court got it wrong by finding that the investors' damages theory "somehow transformed our direct claim into a derivative one," Rizio-Hamilton said. When plaintiffs such as the investors assert an individual right, that claim is direct when it is brought outside the fiduciary duty context, he said, citing both the 2015 decision in [NAF Holdings LLC v. Li & Fung Trading Ltd.](#) and the 2016 decision in [Citigroup Inc. v. AHW Investment Partnership](#) by the Delaware Supreme Court.

U.S. Circuit Judge Dana Douglas pointed out that opposing counsel claimed the investors did not bring that argument before the lower court.

The Delaware Supreme Court created a two-prong test for direct versus derivative claims, in a case called [Tooley v. Donaldson Lufkin & Jenrette Inc.](#) It is true that the investors did not say that Tooley does not apply under Citigroup and NAF, but both of those latter cases are subsequent

precedents by the Delaware Supreme Court interpreting and limiting Tooley, Rizio-Hamilton said.

The Fifth Circuit's precedent allows for a party to present subsequent authority on the issue of categorizing a claim as derivative or direct to the appellate court, he said.

McDermott's attorney, Anthony Lucisano of Baker Botts LLP, told the court that the damage arising from a misleading proxy statement to a shareholder flows from the damage done to a corporation. Because the harm stems from damage to the corporation, the claims must be derivative, he said.

U.S. Circuit Judges Edith Brown Clement, Dana M. Douglas and Irma Carrillo Ramirez sat on the panel for the Fifth Circuit.

The investors are represented by John Rizio-Hamilton, Katherine M. Sinderson, Aasiya F. M. Glover and Jonathan G. D'Errico of Bernstein Litowitz Berger & Grossmann LLP and Chet B. Waldman and Matthew Insley-Pruitt of Wolf Popper LLP.

McDermott is represented Angela C. Zambrano, Mason Parham and Phillip Shaverdian of Sidley Austin LLP and David D. Sterling, Amy Pharr Hefley, J. Mark Little, Anthony J. Lucisano and Frank Mace of Baker Botts LLP.

The case is Local 813 Insurance Trust Fund et al. v. McDermott International et al., case number 25-20147, in the U.S. Court of Appeals for the Fifth Circuit.

--Additional reporting by Emilie Ruscoe and Emlyn Cameron. Editing by Marygrace Anderson.

All Content © 2003-2026, Portfolio Media, Inc.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Bath & Body Works Brass Hid Growth Woes, Investor Claims

By **Emilie Ruscoe**

Law360 (March 2, 2026, 8:05 PM EST) -- Current and former brass of personal care retailer Bath & Body Works face a shareholder derivative suit alleging they downplayed certain growth strategy flops, hurting the company and investors when disclosures of those fumbles caused share prices to slide.

In a complaint filed Friday in Ohio federal court, Bath & Body Works investor Jyothiswaroop Jayaprakash claimed the company's leaders breached their fiduciary duties after the company slashed its financial projections for the year in August, then conceded in November that certain strategies to grow its business, such as adding men's products, hadn't paid off.

Jayaprakash claimed the company's leadership knew or should have known that they'd overstated the success of the various growth ideas. He further alleged that despite knowing the growth strategies were falling flat, the defendants caused the company to rely on the buzz of its brand collaborations to carry certain recent quarters.

The investor accused Bath & Body Works' leadership of knowing, on the basis of those factors, that the company likely wouldn't meet the financial goals it previously shared with investors, making its public statements false and misleading.

Beginning in 2024, Jayaprakash said, the company touted its forays into certain "adjacencies" to its core business such as hair, lip and laundry products in addition to the men's products, the suit states.

The company said that year it expected to reach new customers with the product line expansion, and reiterated this in February 2025, saying its growth strategy, including its adjacency products, was "working."

But the company lowered its financial guidance in August 2025, including by reducing expected earnings per diluted share for its 2025 fiscal year from \$3.53 to \$3.28, Jayaprakash said. Following that news, Bath & Body Works' share price fell nearly 7%, from almost \$32 to just above \$29.

Trading prices fell again in November after company CEO Daniel Heaf said the company would drop its men's grooming products and hair products, telling investors that "we pursued adjacencies to attract new consumers, but that strategy has not delivered the growth we expected, and it reduced focus in investing in our core categories," Jayaprakash said.

Following those comments, the investor said, prices for Bath & Body Works shares fell nearly 25%, from over \$21 to under \$16.

Jayaprakash additionally alleged that during the relevant period, the company's former CEO, Gina Boswell, Chief Financial Officer Eva Boratto and board chair Sarah Nash made improper insider sales of their Bath & Body Works shares that totaled \$3.7 million.

Jayaprakash also claimed the company also overpaid by over \$321 million as it bought back over 19.5 million shares of its own stock between June 2024 and October 2025 while its shares were artificially inflated in connection with the alleged misrepresentations.

Jayaprakash separately pointed to a **proposed investor class action** naming the company, Boswell, Boratto and Heaf.

The securities suit asserts Bath & Body Works investors were hurt by the company's alleged misrepresentations about its growth strategies. The class action was filed in January, and March 14 is the deadline for would-be lead plaintiffs to move for appointment in that matter, filings show.

Jayaprakash claimed in the derivative action that the company "will have to expend many millions of dollars" as it faces the investor class action and other costs tied to the alleged misconduct.

In addition to the breach of fiduciary duty claim, Jayaprakash brought claims including securities fraud, control person liability, unjust enrichment, abuse of control, gross mismanagement and waste of corporate assets.

On Monday, counsel for Jayaprakash declined to comment and representatives for the company didn't immediately respond to requests for comment.

Jyothiswaroop Jayaprakash is represented by Michael J. Boyle of Bronstein Gewirtz & Grossman LLC and Timothy Brown of the Brown Law Firm PC.

Counsel information for the defendants wasn't immediately available Monday.

The case is Jayaprakash v. Heaf et al., case number 2:26-cv-00245, in the U.S. District Court for the Southern District of Ohio.

--Additional reporting by Sydney Price. Editing by Jay Jackson Jr.

All Content © 2003-2026, Portfolio Media, Inc.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

AI Drugmaker BioXcel Eyes \$9.8M Investor Settlement

By **Katryna Perera**

Law360 (March 2, 2026, 8:50 PM EST) -- BioXcel Therapeutics Inc., an artificial intelligence-driven drugmaker, has reached a \$9.8 million settlement with investors to resolve claims that the company and its top brass deceived them about compliance problems with a clinical trial for a dementia drug.

The investor plaintiffs filed a **motion** for preliminary approval on Friday, arguing the court should grant the first green light to the deal because it provides an immediate and substantial recovery, worth about 14% of the estimated total recoverable damages, to the proposed class amid the risks of continued litigation.

"These risks include disputes over plaintiffs' ability to prove falsity, scienter, loss causation and damages. In addition, plaintiffs faced numerous other risks unique to large complex class action litigation, such as their ability to secure and maintain a certified class as well as recover any award obtained at trial," the motion said.

The proposed settlement class includes all those who purchased BioXcel common stock between March 9 and Aug. 11, 2023, according to the motion.

Lead counsel from Levi & Korsinsky LLP and Grant & Eisenhofer PA intend to seek an award of attorney fees worth 25% of the settlement, or about \$2.4 million, plus \$225,000 in litigation costs. Additionally, the lead plaintiffs may seek \$30,000 service awards, the motion said.

Adam Apton of Levi & Korsinsky LLP, counsel for the class, told Law360 on Monday that they are "eager" to get the settlement approved.

Counsel for BioXcel did not immediately respond to requests for comment.

The suit alleges that investors "were stunned to learn" that trial data for BXCL501, a drug intended to treat agitation in Alzheimer's patients, "was virtually useless" after the U.S. Food and Drug Administration found protocol violations. Investors lost millions of dollars when the stock price plummeted, according to the complaint.

The suit claimed BioXcel and its leaders "waited six months to disclose the truth" about the clinical trial, known as Tranquility II, to investors "and timed the disclosure deliberately to allow BioXcel's chief executive, defendant Vimal Mehta, to realize millions of dollars in gains from exercising his options pursuant to a trading plan that had preestablished when these transactions would occur."

The investors are represented by Adam M. Apton of Levi & Korsinsky LLP and Abe Alexander and Vincent J. Pontrello of Grant & Eisenhofer PA.

The defendants are represented by Colleen C. Smith, Michele D. Johnson, Sarah Tomkowiak and Meryn C.N. Grant of Latham & Watkins LLP.

The case is Tonya Hills et al. v. BioXcel Therapeutics Inc. et al., case number 3:23-cv-00915, in the U.S. District Court for the District of Connecticut.

-- Additional reporting by Brian Steele. Editing by Leah Bennett.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Apple Execs Hit With Derivative Suit Over Alleged Monopoly

By **Dorothy Atkins**

Law360 (March 2, 2026, 6:16 PM EST) -- A Florida police pension fund has hit Apple Inc.'s top brass with a derivative securities suit in California federal court, accusing them of breaching their fiduciary duties by profiting off of the company's anticompetitive conduct while exposing Apple to significant legal risks, which has already led to billions of dollars in fines.

In a **sprawling 239-page complaint** filed Friday, the City of Hollywood Police Officers' Retirement System chronicles Apple's fast-paced growth over the past two decades, claiming it has generated billions of dollars in revenues with its allegedly anticompetitive, closed operating system across Apple's products, which purportedly stifles competition and effectively creates a monopoly.

The pension fund alleged that since at least 2023, the company's leadership allowed Apple to implement numerous anticompetitive practices, including enforcing so-called anti-steering provisions that prohibit app developers from directing consumers to rival payment platforms. Apple also allegedly imposed contractual and technical constraints that further deter rival app makers and hamper cloud streaming, among other alleged misconduct, the suit says.

In recent years, Apple's alleged anticompetitive activity has sparked hearings in the U.S. and abroad, in which lawmakers found a significant pattern of antitrust misconduct at the company, according to the suit.

The pension fund alleged Apple's executives and board members have cashed in stock options and taken home eight-figure annual salaries, among garnering other compensation perks, while allowing the alleged misconduct to fester until the U.S. Department of Justice filed its own **antitrust suit in March 2024**.

Apple's purported "anticompetitive playbook" now threatens the rapidly developing generative artificial intelligence market, which the pension fund argued could further stifle competition.

"Apple's anticompetitive misconduct has and will cause billions of dollars of damages to the company," the fund said. "Apple fiduciaries have either failed to oversee compliance, allowing this anticompetitive conduct to fester, or have actively engaged in this anticompetitive conduct."

The lawsuit names Apple Inc. as a nominal defendant, but primarily takes issue with its current leadership team: Apple CEO Timothy Cook, Apple Chief Financial Officer Luca Maestri, Apple fellow Philip W. Schiller and Chairman Arthur Levinson, and board members Ronald Sugar, Andrea Jung, Susan Wagner, Alex Gorsky, Monica Lozano and Wanda Austin.

The lawsuit notes Apple **has already been fined** more than \$2 billion in the European Union for violating rules and regulations relating to the bloc's anti-steering provisions, and in 2021, the company cut a **\$100 million deal** to resolve an antitrust class action pending in California by app developers with revenues of \$1 million or less.

In October, the U.K.'s Competition Appeal Tribunal **also found** Apple liable for charging an excessive and unfair commission, and as a result, it could face damages of more than \$1 billion.

The pension fund added that Apple has also had to incur significant costs in recent years defending against Epic Games Inc.'s **antitrust lawsuit** challenging Apple's 30% commissions and other App

Store practices, which includes facing sanctions **upheld on appeal** for **discovery misconduct** and for violating U.S. District Judge Yvonne Gonzalez Rogers' **2021 injunction** and discovery misconduct.

"[Apple] has incurred and will incur additional litigation, enforcement, and compliance costs as a result of its antitrust violations, which continue to the present," the pension fund said.

The seven-count complaint asserts claims of breach of fiduciary duty, corporate waste, unjust enrichment and multiple violations of Securities Exchange Act and related regulations against the individual defendants.

"Apple's directors violated their fiduciary duties under California law through their failure to oversee antitrust compliance at the company, as evident by the long and uninterrupted anticompetitive conduct as detailed in numerous antitrust enforcement and civil actions, plus the billions of dollars in fines and settlement," the pension fund said.

The pension fund seeks restitution and the disgorgement of all profits, benefits and other compensation attributable to the alleged fiduciary breaches; plus attorney fees, costs and interest; and an order requiring the company to make corporate reforms to address the alleged misconduct.

The requested reforms include, but are not limited to, implementing measures to prevent and remedy anticompetitive practices that may violate federal and state antitrust laws; implementing additional audit, compliance and internal control procedures; and requiring independent approval of the terms and timing of insider stock selling and stock option grants.

The pension fund claimed it would be futile to take its claims to Apple's board first before suing because the board members all face "a substantial likelihood of liability" given their alleged past fiduciary breaches, and there is reasonable doubt the majority would be capable of making an independent and disinterested decision about whether to vigorously prosecute the claims.

Counsel for the pension fund declined to comment Monday, and representatives for Apple didn't immediately respond to requests for comment.

The pension fund is represented by Donald A. Broggi, Jing-Li Yu, Joseph A. Pettigrew and Geoffrey M. Johnson of Scott + Scott Attorneys at Law LLP.

Counsel information for Apple, its executives and its board members wasn't available Monday.

The case is City of Hollywood Police Officers Retirement System v. Cook et al., case number 5:26-cv-01724, in the U.S. District Court for the Northern District of California.

--Editing by Lakshna Mehta.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

VIX Note Investors Denied Appeal Bid In Credit Suisse Suit

By **Emilie Ruscoe**

Law360 (March 2, 2026, 11:35 PM EST) -- Investors who claimed Credit Suisse manipulated the market for certain exchange-traded notes can't immediately appeal an order blocking them from further amending their claims, in part because they sought review of a question "ill-suited to purely legal analysis," a federal judge in Manhattan held.

In a Friday order, U.S. District Judge Analisa Torres denied the investors' request that she certify, for interlocutory appeal, her May 2025 order stating the investors can't revise their claims, saying the questions they would pose to the appeals court were not appropriate for a certification of appealability.

One of these questions was whether a judge could find that a proposed amendment of claims could be unduly prejudicial, Judge Torres noted.

The plaintiffs "have not demonstrated that this question is one a reviewing court 'could decide quickly and cleanly without having to study the record,'" she stated, referencing a 2007 holding from the case [Consub Delaware LLC v. Schahin Engenharia Limitada et al](#) .

For the Second Circuit to address that proposed question of law, Judge Torres said, "it would necessarily consider who knew what, and when" in connection with the details of the case.

"Because plaintiffs' question is ill-suited to purely legal analysis, it is not appropriate for certification," she ruled.

The investors' lawsuit, first filed in 2018, claims that Credit Suisse, its former CEO Tidjane Thiam and its former Chief Financial Officer David R. Mathers schemed to crash the market for the bank's VelocityShares Inverse VIX short-term exchange traded notes.

The investors previously sought to revise their suit to add claims about the bank's lending practices and internal calculations, but Judge Torres last year rejected the move on the grounds it would be unfair to make revisions to the consolidated proposed class action.

She told the parties in May that that amendment would mean the defendants, including Credit Suisse, would have spent "years of time and millions of dollars defending against one claim, only to face an entirely new one."

Now, in response to the investors' latest motion, Judge Torres rejected their bid for review of their claim that Credit Suisse knew or should have known that a certain published index was inaccurate.

She called that question "particularly ill-suited for interlocutory review," noting it "could lead only to a remand for repleading, with possibilities of further interlocutory appeals thereafter."

The suit's claims focus on Feb. 5, 2018, when investors estimate they saw \$1.8 billion in losses after the XIV's calculation agent stopped continually calculating the intraday indicative value for roughly an hour after markets closed, during which time investors believed XIVs were valued at \$27 when in reality they were falling to just over \$4.

The post-market close decline saw the intraday trading value for XIV shares fall by more than 80%

from its price at market's close the previous day — a circumstance Credit Suisse had defined in offering documents as an acceleration event that gave it the right to force XIV noteholders to redeem their notes, the investors said.

The bank ultimately redeemed the notes at just under \$6, and the investors who brought the action estimated the bank's associated profits following the forced redemption were between \$475 million and \$542 million.

Since the events at issue in the claims, Credit Suisse collapsed and was taken over by UBS AG in July 2023.

Representatives for the parties did not immediately respond to requests for comment Monday.

Plaintiffs Apollo Asset Ltd., Nikolay Drozhzhinov, Aleksandr Gamberg, Stefan Jager and Set Capital LLC are represented by Michael B. Eisenkraft, Laura H. Posner, Steven J. Toll, Brendan Schneiderman and Carol V. Gilden of Cohen Milstein Sellers & Toll PLLC, Eduard Korsinsky, Nicholas I. Porritt, Adam M. Apton and Alexander A. Krot III of Levi & Korsinsky LLP, Peretz Bronstein of Bronstein Gewirtz & Grossman LLC, and Adam Hollander of Slarskey LLC.

Credit Suisse AG, Credit Suisse Group AG, Credit Suisse International, David R Mathers, and Tidjane Thiam are represented by Herbert S. Washer, Tammy L. Roy, Ivan Torres and Lauren A. Riddell of Cahill Gordon & Reindel LLP.

The case is Chahal v. Credit Suisse Group AG et al., case number 1:18-cv-02268, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Sydney Price, Hailey Konnath and Katryna Perera. Editing by Kristen Becker.

All Content © 2003-2026, Portfolio Media, Inc.

Musk's Twitter Trash Talk Hurt Stock, Jury Told As Trial Starts

By **Bonnie Eslinger**

Law360 (March 2, 2026, 11:43 PM EST) -- Musk "trashed" Twitter to tank the stock price and renegotiate his \$44 billion deal to buy the company, Twitter investors' counsel told a California federal jury at the start of trial Monday, while Musk's lawyer said it wasn't securities fraud for Musk to air "legitimate" concerns about fake accounts on the platform.



Elon Musk, seen in November, didn't commit securities fraud, his lawyer told jurors Monday, because the public statements at issue in the trial are all true. (AP Photo/Evan Vucci, File)

During opening statements in San Francisco, a lawyer for the investor class, Aaron Arnzen of Bottini & Bottini Inc., told jurors that "Elon Musk cheated investors" when buying Twitter to try and save himself "billions of dollars." After signing the merger agreement, Musk tried to get a better financial deal, Arnzen said.

"So he mounted a public spectacle to trash the company, to drive the stock price down," Arnzen said. "To try to renegotiate or escape the deal."

And when the share price plunged, investors suffered huge losses, Arnzen said, adding that in addition to individual shareholders, pension funds, including public sector retirement funds for "firefighters, policemen, nurses and teachers," lost money. Musk should be held accountable, Arnzen said.

Musk "believes he can say or do anything when he wants anytime he wants regardless of the consequences," Arnzen said. "We're here because the law does not make exception for those with power and influence."

Musk's lawyer, Michael Lifrak of Quinn Emanuel Urquhart & Sullivan LLP, said his client did not commit securities fraud. The public statements made by Musk in May 2022 that are at issue in the case are all true, Lifrak said.

In those tweets, Musk had said that the \$44 billion deal was "temporarily on hold," while he waited on information from Twitter about how the company determined that fake accounts make up less than 5% of users — but added that he was "still committed" to the acquisition, Lifrak said.

Musk had asked Twitter for the information but had not received it when he posted those tweets on May 13, Lifrak said.

"He wasn't going to be pushed into closing with Twitter dragging its feet on this important information," Lifrak told jurors.

The second alleged misstatement Musk made on stage at a tech conference on May 16, saying that fake and spam accounts make up at least 20% of Twitter's users. Lifrak said Musk got that information the day before from "reputable" researchers.

"The evidence will show that was Mr. Musk's genuine belief," Lifrak said.

The third set of statements came from Musk the next day, when he tweeted that fake and spam accounts could be "4 times what Twitter claims, could be much higher," adding that Twitter's CEO had "refused to show proof of <5%." That was also true, Lifrak said.

This week, Musk will testify in court, Lifrak said.

"He will tell you this is no scheme to lower Twitter's stock price to get a better deal," Lifrak said, adding that his client had a "legitimate concern about fake accounts."

Arnzen, the investors' attorney, said Twitter had publicly disclosed in all of its financial filings that the company does an internal review of a sample of accounts and that's how it determined that the percentage of false or spam accounts was less than 5% of its "monetizable daily active users."

Lifrak told jurors that the monetizable daily active users is crucial because that's the number of people who will see the site's advertising.

"A bot, fake account, can't buy Chipotle or whatever is being advertised on Twitter," he said.

Arnzen said Musk's statements were misleading.

"The deal was not on hold, there's no right to put the deal on hold, no basis to believe that 5% was anything but a good number," Arnzen said.

Twitter provided Musk with information about its process for determining the percentage of fake accounts, but he ignored it, Arnzen said.

Musk also disputes the investors' assertion that his merger agreement waived his right to do due diligence related to Twitter's business.

Plaintiff Brian Belgrave was the plaintiffs' first witness Monday, telling jurors that he felt "cheated" by Musk and "lost a lot of money" because he sold his Twitter stock after hearing that Musk was no longer purchasing Twitter.

Later, Twitter's former chief legal officer, Vijaya Gadde, took the stand. Gadde worked for Twitter from July 2011 to October 2022. She told jurors she was terminated shortly after Musk bought the company.

Under questioning by Arnzen, Gadde agreed that Musk had provided Twitter with a proposed "seller friendly" merger agreement in April 2022 that waived his right to conduct due diligence on Twitter's business.

"Deal certainty ... is a very important aspect of any M&A transaction," Gadde said. "In this case, the fact that it was not subject to due diligence added to the certainty that the deal would, in fact, close."

Arnzen asked if Musk, before signing the merger agreement and before the May tweets, had asked about getting nonpublic information about estimating the number of bots or about the prevalence of bots on Twitter's platform. Gadde said no.

Gadde will be back on the stand for cross-examination Tuesday. She is one of four executives of Twitter — now X Corp. — who recently reached a tentative **settlement** with Musk in a lawsuit over \$128 million in promised severance pay that Musk allegedly withheld after he bought the social media company and fired them.

The investors **filed** their lawsuit on Oct. 10, 2022, days after Musk **reversed course** and said he intended to close on his original \$44 billion deal to buy the social media platform.

The investors say in their suit that Musk's statements and Twitter posts questioning the transaction were "carefully calculated to drive down the price of Twitter stock."

Musk sought to toss the suit, but in 2023, Judge Breyer ruled that the investors had **plausibly** laid out their claim that Musk violated securities laws with his 2022 tweets on May 13, May 16 and May 17. Then, in 2024, the judge **certified** a class of investors who sold the publicly traded stock or call options, or purchased put options of Twitter, from May 13, 2022, through Oct. 4, 2022.

The investors claim that if they had been aware that the market price was being manipulated by Musk's statements, they would not have sold their Twitter securities at the "artificially depressed prices" that they did or not have sold at all.

During the pretrial conference Judge Breyer told investors they can't bring up Musk's **political beliefs** if they're outside the 2022 time period at issue. Those political activities, however, were on the minds of prospective jurors during jury selection. Judge Breyer swiftly excused 38 potential jurors who said they couldn't be fair and impartial — with Musk's attorney later saying there are "so many people who **hate him** so much."

On Friday, Judge Breyer rejected a bid by Musk to challenge the investors' claim that he had run a **"scheme"** to depress the price of Twitter securities during the acquisition negotiations, saying Musk waited too long to try and toss the claim.

The investors are represented by Joseph W. Cotchett, Mark C. Molumphy, Tyson C. Redenbarger, Gia Jung, Elle D. Lewis and Caroline A. Yuen of Cotchett Pitre & McCarthy LLP and Francis A. Bottini Jr. and Aaron P. Arnzen of Bottini & Bottini Inc.

Musk is represented by Alexander B. Spiro, Ellyde R. Thompson, Jesse A. Bernstein, Stephen A. Broome, Matthew Alex Bergjans and Michael T. Lifrak of Quinn Emanuel Urquhart & Sullivan LLP.

The case is Giuseppe Pampena v. Elon R. Musk, case number 3:22-cv-05937, in the U.S. District Court for the Northern District of California.

--Additional reporting by Hailey Konnath and Dorothy Atkins. Editing by Jay Jackson Jr.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Judge Signals Likely Trim Of Bitcoin Depot Data Breach Suit

By **Chart Riggall**

Law360 (March 2, 2026, 9:13 PM EST) -- A Georgia federal judge signaled Monday that he would likely trim the range of claims that cryptocurrency ATM operator Bitcoin Depot is facing over allegations that the personal information of tens of thousands of American customers was compromised in a 2024 data breach.

At a hearing on the company's motion to dismiss, U.S. District Judge William M. Ray said he failed to see a path forward for claims of unjust enrichment and breach of fiduciary duty raised by Quincey Hall in a suit last year, where he alleged the company failed to safeguard its clients' data and took more than a year to notify them of the incursion.

"I just don't see it," Judge Ray said, adding that he could not find much in the suit above a standard business transaction to justify either claim.

But as to the core of Hall's suit, which centers around allegations that the company negligently protected its systems, the judge appeared less certain to toss the complaint in its entirety even if its claimed damages were "de minimis."

Filed **last August**, Hall's suit arose from a 2024 incident in which hackers gained access to Bitcoin Depot's systems and exfiltrated more than 26,000 users' personal information.

Hall said Bitcoin Depot first detected suspicious activity on its network in June 2024 but did not begin notifying those impacted until July 2025, leaving them unable to protect themselves against potential identity theft and fraud in that period. And in the time since, he alleged that Bitcoin Depot's cybersecurity failures have forced "more than 26 thousand U.S. residents" to do things like freeze their credit, close financial accounts and monitor their credit reports for unauthorized activity.

"These efforts are necessary because, as a result of defendant's actions and inactions, cyber criminals obtained and now possess the information needed to commit personal identity theft and wreak havoc on the financial and personal lives of thousands of individuals, including plaintiff and class members, for years to come," Hall said.

In fact, Hall contended that he and the prospective class members are also at risk of "cryptocurrency ATM scams and physical violence" as a result of Bitcoin Depot's inaction, claiming that risk "will remain for their respective lifetimes."

In court on Tuesday, however, Troutman Pepper Locke LLP's Cindy D. Hanson said that Hall only alleged that a handful of data points — names, phone numbers, and driver's license numbers — had been stolen, which created little risk of identity theft.

"There is not a single allegation of how the release of a driver's license is going to make someone more susceptible to identity theft," she said.

Adding that Hall had not even alleged he had been the victim of fraud, she added, "I'm frankly not sure you could come up with a much weaker case than the one we have in front of us ... A year's gone by [between the breach and the suit] and we still have nothing."

But MaryBeth Gibson, representing Hall, argued that hackers could use the data stolen from Bitcoin

Depot to reverse engineer more sensitive information, such as Social Security numbers, and that it is not uncommon for such actors to sit on data for years before putting it to nefarious ends.

For his part, Judge Ray seemed to downplay the significance of Hall's claims, opining that he would like to see a defendant take a data breach case to trial to see their actual value before a jury.

But he also compared the breach to a housekeeper losing a client's keys, and said that if the homeowner was forced to change their locks, he "would consider that a damage" even without a subsequent break-in.

Hall is represented by MaryBeth Gibson of Gibson Consumer Law Group LLC and David S. Almeida and Elena Belov of Almeida Law Group LLC.

Bitcoin Depot is represented by Cindy Dawn Hanson and Ronald Raether Jr. of Troutman Pepper Locke LLP.

The case is Hall v. Bitcoin Depot Inc., case number 1:25-CV-04317, in the U.S. District Court for the Northern District of Georgia.

--Editing by Vaqas Asghar.

All Content © 2003-2026, Portfolio Media, Inc.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

5 Different AI Systems Raise Distinct Privilege Issues

By **Heidi Nadel** (March 2, 2026, 5:12 PM EST)

On Feb. 10, an **oral ruling** from U.S. District Judge Jed Rakoff in the U.S. District Court for the Southern District of New York set off a firestorm of legal commentary, warnings and speculation about artificial intelligence and the future of attorney-client privilege.

Much of the early reaction treated the decision as a referendum on AI itself, rather than a straightforward application of privilege principles to a specific set of facts.

The bench ruling, issued in *U.S. v. Heppner*, held that documents a criminal defendant created using a public, consumer-facing AI tool were not protected by attorney-client privilege or work-product doctrine. The court's written order, issued a week later, made the point explicit, explaining that "AI's novelty does not mean that its use is not subject to longstanding legal principles" governing privilege and work product.



Heidi Nadel

Here's the thing: AI hasn't changed privilege law, but privilege law may change how we need to think about AI.

Attorney-client privilege applies only to communications that are: (1) between a client and a lawyer, (2) made for the purpose of seeking or providing legal advice, and (3) confidential.

In *Heppner*, the materials at issue were created by a criminal defendant on his own, using Claude — a public, consumer-facing AI tool — without attorney involvement and outside any confidential attorney-client relationship. The materials thus lacked every one of the elements needed to establish privilege, and the defendant's work-product claim failed for similar reasons.

The court explicitly found that the communications were not confidential, noting that Anthropic, the AI provider, collected user inputs and outputs and reserved the right to disclose that data to third parties, including government authorities.

The real lesson of the decision is not in what it says, but in what it does not say. The court did not address AI as a category or speak to most of the tools lawyers and corporate clients use today. It addressed one kind of system, used in one particular way.

That narrowness is easy to miss in the rush to draw broader conclusions, but it matters, because different AI tools raise different confidentiality and privilege questions.

From a lawyer's perspective, this is where the practical unease begins. Privilege analysis increasingly turns on technical and contractual details that sit outside the traditional legal conversation: how a tool is configured, where data is processed, whether prompts are retained and who can access them. Those details can quietly determine the outcome, and lawyers do not always see them unless we know to ask the right questions.

Confidentiality and privilege are not the same thing. A communication can be confidential without being privileged, but it cannot be privileged without being confidential. Once the analysis turns to confidentiality, the differences among AI tools become critical.

The single label "AI" is often used as shorthand for convenience, but from a privilege perspective, it

obscures more than it reveals. Public chatbots, secure enterprise systems and fully local models operate under very different confidentiality structures, and they should not be analyzed the same way.

AI Is Not One Thing: Five Different Privilege Contexts

From a privilege perspective, AI is not a single category. It is a label we use for a wide range of tools that operate in different ways. Those differences matter because they affect the confidentiality element of the privilege analysis.

At a practical level, there are at least five distinct contexts in which AI systems are used today. This is not meant to be an exhaustive taxonomy, but it captures the configurations that most often show up in real legal practice. Each raises different privilege questions.

1. Public, Consumer-Facing AI Tools

These are the tools most people think of when they hear "AI," including public chatbots, general purpose writing or research tools, and tools governed by standardized consumer terms of use.

These tools often share a familiar set of features: They are operated by third-party vendors, data is processed on the vendor's systems, contractual confidentiality protections are limited or absent, and prompts and/or outputs may be retained or used for system improvement.

In most cases, communications with these tools will not be privileged. They are not communications between an attorney and a client, and they are typically made to a third-party service without a confidentiality structure designed to preserve privilege.

The facts in Heppner fit squarely into this category.

2. Enterprise Cloud AI Systems

Many companies and law firms now use AI tools deployed within enterprise environments, often through licensed platforms or integrated productivity systems. In practice, this includes tools embedded in corporate productivity suites, internal research platforms, and other enterprise systems designed to operate within existing security and confidentiality controls.

Typical features include contractual confidentiality obligations, restrictions on training public models, access controls, audit logs and enterprise compliance measures.

Depending on how it is deployed, an enterprise AI tool may function either as a confidential third-party service provider or as an internal analytical tool.

In some configurations, an external vendor operates the AI and processes data on its own infrastructure. Courts may analogize this to situations involving outside translators, consultants or technical service providers. Courts have long recognized that the involvement of such third parties does not automatically destroy privilege when they are engaged to facilitate legal advice and are bound by confidentiality obligations.

In other configurations, the AI operates entirely within the company's own environment, without meaningful third-party access to the data. In that setting, the AI functions more like a software tool — closer to a document review platform or analytics system than an outside service. Where there is no disclosure beyond the enterprise boundary, the privilege analysis often looks very familiar.

The questions courts are likely to ask are familiar ones: whether the communication was between the attorney and the client, whether it was made for the purpose of legal advice and whether it was kept confidential, including through appropriate confidentiality arrangements with any vendor involved.

3. Fully Local or On-Premises AI

Some organizations deploy AI models that run entirely on local machines or internal servers, with no external data transmission and no third-party vendor access.

With fully local AI, there is no disclosure to an outside party at all. From a privilege perspective, using a local AI tool should be treated no differently than drafting a document in a word processor or using an internal analytics program.

The traditional privilege elements still apply. If the communication is between attorney and client for the purpose of legal advice and kept confidential, the mere presence of a local AI tool does not meaningfully change the analysis.

4. AI Note-Takers and Meeting Assistants

A fast-growing category includes tools that join meetings as virtual participants, record or transcribe conversations, generate summaries or action items, and store transcripts in cloud environments.

These tools raise familiar third-party issues. The analysis will depend on whether the vendor is contractually bound to confidentiality, whether the tool is functioning as a neutral service provider and whether its presence is appropriate for the legal communication at issue.

Courts have long dealt with analogous situations involving court reporters, interpreters and litigation support vendors. AI note-takers raise the same questions, just in a more technologically compressed form.

5. AI Agents and Autonomous Systems

Another fast-growing category involves AI agents that retrieve information across systems, review or summarize documents, assist with contract analysis or negotiations, and perform tasks semi-autonomously on behalf of users.

Because these systems often interact with multiple platforms and environments, the privilege analysis becomes more fact-specific: where information is sent or stored, whether the agent operates within a confidential environment, whether it acts at the direction of counsel, and whether it is best understood as an internal tool or a third-party service.

In practice, these systems are often harder to classify cleanly — which is precisely why they deserve closer attention.

Again, these are not novel privilege questions. What is new is the speed and opacity with which these systems can move information across boundaries that privilege doctrine assumes lawyers can see.

Preserving Privilege When Clients Use AI

All of this is well and good for lawyers using AI. But clients use AI as well. For client use, the practical question is not whether AI is privileged, but how AI tools can be used without undermining privilege or work-product protection.

As a lawyer, my concern is often not whether privilege doctrine can accommodate AI — it can — but whether I know enough about how a particular tool is actually set up. Privilege analysis now depends on technical details that lawyers do not always control and clients do not always surface, and those details can quietly determine the outcome.

The starting point remains the same. Privilege applies only to communications between the lawyer and the client, for the purpose of legal advice and only if those communications are kept confidential. If a client is using AI independently for business or personal purposes, outside of any attorney-client communication, privilege will not attach regardless of the tool involved.

But if a client prepares materials at the direction of counsel, for the purpose of legal advice and within a confidential environment, those materials may still qualify for privilege or work-product protection, even if AI tools are used in the process.

Whether used by lawyer or client, when AI is part of the legal process, confidentiality becomes the anchor. Public, consumer-facing systems may involve disclosures that are inconsistent with privilege.

By contrast, enterprise platforms operating under contractual confidentiality obligations, or locally deployed models, may present very different privilege considerations.

The Bottom Line

The Heppner ruling did not create a new privilege rule for AI. It applied long-standing privilege and work-product principles to a set of facts that satisfied none of the required elements.

What made the decision feel dramatic was not the law, but the assumption that the result would be the same for all AI. It would not.

Public chatbots, enterprise AI platforms, local models, note-taking tools and autonomous agents operate under very different confidentiality structures. The more deliberately lawyers and clients think about those structures, and about how a particular tool fits within existing privilege doctrine, the better chance they have of protecting documents and communications created with AI assistance.

The lesson of Heppner is not that AI is incompatible with privilege. It is that the same privilege rules still apply, even when the tool is new. The challenge is not rewriting doctrine, but understanding the technology well enough to apply it correctly.

Heidi A. Nadel is head of U.S. litigation and government investigations at HP Inc.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

All Content © 2003-2026, Portfolio Media, Inc.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

FedEx Customers Seek Refunds For Passed-On Tariff Costs

By Jack McLoone

Law360 (March 2, 2026, 5:22 PM EST) -- A proposed class action in Florida federal court looks to make sure FedEx refunds customers for the costs of tariffs the shipping giant passed onto them as the company looks to recoup its payments made under President Donald Trump's illegal tariff regime.

Federal Express Corp. customer Matthew Reiser's proposed **class action**, filed Friday, is looking to recoup all import duties and "ancillary brokerage fees" charged by FedEx on goods that would have been considered duty-free if not for Trump's International Emergency Economic Powers Act tariffs struck down by the U.S. Supreme Court last month.

The action is aimed at addressing the lack of "any legally binding statements" that FedEx will give customers their money back if and when it receives a refund for the tariffs following its U.S. Court of International Trade **suit**, Reiser's representatives at Morgan & Morgan PA said Monday in a news release.

Reiser is seeking to represent millions of customers he claims were forced to pay these costs, saying in his complaint that a "substantial proportion of commonly imported consumer goods" falls under duty-free classifications without the IEEPA tariffs.

"In equity and good conscience, FedEx should not be permitted to retain these funds," he said. "The money belongs to plaintiff and the class, and FedEx is obligated to return it."

The Supreme Court's **6-3 ruling** last month upheld lower court actions that deemed unlawful tariffs that the president had imposed on countries across the world under the IEEPA, saying the Constitution gives Congress the power to impose taxes and duties, not the executive branch. FedEx was one of over 25 companies to quickly file suits at the CIT seeking refunds for the duties they paid on imports.

"FedEx's complaint is entirely silent on whether FedEx intends to return to its customers any refund it receives from the government," Reiser said, including "no recognition that the 'injury' FedEx claims to have suffered was in fact born by millions of individual consumers."

This includes no mention at all of the other brokerage and clearance fees that FedEx also made customers pay that were tied to the IEEPA tariffs, Reiser said. These charges were assessed on goods that would not have been subject to customs entries if not for the illegal tariffs, he said.

In Reiser's individual experience, he claims FedEx tacked on \$36 to his purchase of what would otherwise have been duty-free tennis shoes from Germany: \$21 to cover the 15% IEEPA tariff on imports from the European Union, and \$15 to cover ancillary and brokerage fees.

"The entirety of the \$36 charged to plaintiff is thus directly attributable to the IEEPA tariff — both the void duty and the fees for processing a customs entry that should never have been filed," Reiser said.

If FedEx does get a full refund from the government, it will still retain these brokerage fees, Reiser said, arguing this creates a basis for an unjust enrichment claim, as well.

"Every dollar FedEx collected in brokerage fees on duty-free products was a charge for which there was no lawful consideration," he said.

Reiser also took issue with FedEx's plan to refund customers being "contingent on future government and court guidance that may never materialize."

The company said in the wake of the Supreme Court ruling it planned to issue refunds based on the results of its CIT case and future government guidance, doubling down on this plan in a statement to Law360 on Monday.

"Our intent is straightforward: if refunds are issued to FedEx, we will issue refunds to the shippers and consumers who originally bore those charges," a spokesperson for the company told Law360. "When that will happen and the exact process for requesting and issuing refunds will depend in part on future guidance from the government and the court. We are committed to transparency and will communicate clearly as additional direction becomes available from the U.S. government and the court."

Reiser is seeking a declaratory judgment finding FedEx is obligated to refund these payments made by customers, awarding the proposed class members damages equal to the costs — plus prejudgment interest — and an order for a full accounting of the tariffs and fees collected from the proposed class.

"FedEx is the only entity with legal standing to seek a refund of duties directly from the government," Morgan & Morgan founder John Morgan and attorney John Yanchunis said in a joint statement included in Monday's news release. "This leaves consumers like our client with no choice but to try to legally compel FedEx to refund them for the tariffs that they were charged by FedEx, not to mention the ancillary fees FedEx added to process these transactions. Our goal is to return to American consumers every penny they were improperly charged."

Reiser is represented by John A. Yanchunis, Patrick Barthle and Clay M. Townsend of Morgan & Morgan PA.

Representation information for FedEx was not immediately available.

The case is Reiser v. Federal Express Corp. et al., case number 1:26-cv-21328, in the U.S. District Court for the Southern District of Florida.

--Additional reporting by Dylan Moroses and Lauren Berg. Editing by Nick Petruncio.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Experts Tossed In Heavy Metals Baby Foods MDL

By **Emily Field**

Law360 (March 2, 2026, 9:16 PM EST) -- The California federal judge presiding over multidistrict litigation alleging that heavy metals in baby food made by Gerber and others cause autism on Friday axed plaintiffs' experts, finding that their opinions were based on a hypothetical menu that could well have been "cherry-picked" by the families' attorneys.

U.S. District Judge Jacqueline Scott Corley said the experts in the MDL had built their opinions on eating food tainted with lead and arsenic on studies that didn't specifically look at baby food. The families hadn't pointed to any studies of whether baby food in general, let alone food of any kind, can cause autism spectrum disorder or attention deficit hyperactivity disorder, the judge said.

"So, plaintiffs' causation theory is built upon a series of extrapolations from studies that do not look specifically at consumption of baby food," the judge said.

The plaintiffs had to show how much lead and arsenic children were realistically exposed to in the baby food, at what dosages and whether those metals can cause autism and ADHD, according to the order.

At the outset, infant dietitian Priscilla Barr helped develop hypothetical menus of Gerber and Beech-Nut baby foods according to the order. But those menus came from the plaintiffs' attorney in the litigation, the judge said.

"Here, plaintiffs' counsel has created hypothetical menus that purportedly represent a realistic dose of defendants' products. Yet these menus are a black box; the record is silent as to how they were created," the judge said. "And, since plaintiffs' expert was not involved in their creation, she cannot provide that information either. "

There's nothing about how the products were selected or why certain assumptions were built in to the menus, such as taking it as a given that a child wouldn't be breastfeeding or eating table food in addition to baby foods, the judge noted.

"On this record, it is just as likely, if not more likely, counsel cherry-picked the products for their higher lead or arsenic content as it is counsel selected them based on any child's actual diet," the judge said.

The MDL is an amalgamation of suits filed last year by parents and guardians who claim their children developed autism and ADHD after being exposed to heavy metals in baby food. The suits lean on a 2021 congressional report that said baby foods from major companies were tainted with dangerous levels of such heavy metals as lead and arsenic, according to the court record.

The plaintiffs' expert on exposure, Dr. Rachel Jones, used these menus and the data from the companies' heavy metal tests to estimate exposure to lead and arsenic, according to the order. Since her opinion is built on those menus, the judge found it was inadmissible.

The judge also granted the companies' motions in regard to the testimony of the plaintiffs' three epidemiologists and two toxicologists since they are built on those two experts.

And these experts can't bridge the analytical gap between their data and their conclusions, the judge said.

"There are no studies considering whether consumption of baby food is associated with ASD or ADHD, and the experts fail to scientifically justify extrapolating from the studies they cite," the judge said.

Judge Corley did allow one of the plaintiffs' experts to testify, child neurology specialist Dr. Kevin Shapiro. He offered an opinion on whether lead and arsenic can plausibly influence the development of autism spectrum disorder and ADHD symptoms.

His report didn't opine on the companies' baby foods and didn't have an opinion on Jones' heavy metal exposure calculations, the judge said.

"He does not identify a dose, nor does he conclude that any dose could cause ASD or ADHD; the report merely indicates that studies have observed an association between the heavy metals and ASD/ADHD at 'low levels,'" the judge said.

Representatives for the parties didn't immediately respond to requests for comment on Monday.

The families are represented by Wisner Baum, Wagstaff Law Firm, Walsh Law PLLC, Motley Rice LLC, Moore Law Group PLLC, Peiffer Wolf Carr Kane Conway & Wise LLP, The Russo Firm, DiCello Levitt LLP and Pendley Baudin & Coffin LLP, among others.

Walmart and Beech-Nut are represented by Livia M. Kiser, Michael Anthony Lombardo and Todd P. Davis of King & Spalding LLP.

Hain Celestial Group is represented by Michael X. Imbroscio, Phyllis A. Jones and David N. Sneed of Covington & Burling LLP.

Gerber is represented by Bryan A. Merryman of White & Case LLP and Joseph G. Petrosinelli and Neelum J. Wadhvani of Williams & Connolly LLP.

Sun-Maid and Plum are represented by Hope S. Freiwald and Michelle H. Yearly of Dechert LLP.

Nurture is represented by Brooke Killian Kim, Mary Gately and Loren H. Brown of DLA Piper.

Sprout Foods is represented by Michael R. Klatt and Nancy Mae Erfle of Gordon Rees Scully Mansukhani LLP.

The case is In re: Baby Food Products Liability Litigation, MDL number 3101, in the U.S. District Court for the Northern District of California.

--Editing by Linda Voorhis.